

LOCAL LEAD AGENCY

GUIDELINES

FOR A

2004-2007

COMPREHENSIVE TOBACCO

CONTROL PLAN

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I. INTRODUCTION

A. Statement of Purpose and Organization of the Guidelines

The purpose of these guidelines is to direct the Local Lead Agencies (LLAs) in the development of the 2004-2007 Comprehensive Tobacco Control Plan (CTCP) as required by the Health and Safety Code, Section 104350-104480 and Section 104500-104545. California Department of Health Services/Tobacco Control Section (CDHS/TCS) is responsible for issuing guidelines, providing training, technical assistance and consultation to assist LLAs in preparing their CTCPs, and receiving and approving local plans.

B. Legislative Authority

California's Tobacco Control Program was developed in response to the passage of Proposition 99, the Tobacco Tax and Health Protection Act of 1988, by California voters. This referendum increased the state cigarette tax by 25 cents per pack (from 10 cents to 35 cents per pack) and added an equivalent amount on other tobacco products. The new revenues were earmarked for programs to reduce smoking, to provide health care services to indigents, to support tobacco-related research and to fund resource programs for the environment. The money is deposited according to the following formula: 20 percent is deposited in the Health Education Account; 35 percent in the Hospital Services Account; 10 percent in the Physician Services Account; 5 percent in the Research Account; 5 percent in the Public Resources Account; and 25 percent in the Unallocated Account (Revenue & Taxation Code 30124).

Programs funded by the Health Education and Research accounts are overseen by the legislatively mandated Tobacco Education and Research Oversight Committee (TEROC). In performing this mandate, TEROC provides advice to the CDHS/TCS, the University of California and the California Department of Education (CDE) regarding the administration of the Proposition 99-funded programs. TEROC also publishes and periodically updates a state master plan for tobacco control and tobacco-related research, and makes recommendations to California's Legislature for improving Proposition 99-funded tobacco control and tobacco-related research efforts in California.

The Health Education Account (HEA) funds both community and school health education programs to prevent and reduce tobacco use. The HEA is jointly administered by CDHS/TCS, which receives approximately two-thirds of the funding, and the CDE, which receives approximately one-third of the funding available in the account. CDHS/TCS is responsible for supporting a statewide tobacco control program, one of the largest public health interventions of its kind ever initiated, nationally or internationally. CDHS/TCS funds LLAs, competitively selected community-based organizations, a statewide media campaign, and an

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extensive evaluation of the entire Tobacco Control Program. CDE funds grades 4-8 based on an allocation method and high schools through a competitive grant program.

Health and Safety Code Sections 104400 through 104415 designate each county or city health department as the lead agency for its local health jurisdiction and describes the responsibilities of LLAs. LLAs are legislatively mandated to periodically submit a comprehensive tobacco control plan to CDHS, and to obtain the involvement of local community organizations in the development of that plan. The legislation requires that the plan provide demographic information; local data on smoking and tobacco use; a description of program goals, objectives, target populations, activities and evaluation; budget cost estimates for program activities; budget information including staffing configurations; and computer hardware and software needs and plans. Additionally, the enabling legislation requires local health departments to use a uniform management data and information system, which will permit comparisons of workload, unit costs and outcome measurements on a statewide basis.

The enabling legislation for Proposition 99 includes Assembly Bills (AB) 75 (Chapter 1331, Statutes of 1989), AB 99 (Chapter 278, Statutes of 1991), AB 816 (Chapter 195, Statutes of 1994), AB 3487 (Chapter 199, Statutes of 1996), Senate Bills (SB) 99 (Chapter 1170, Statutes of 1991), SB 960 (Chapter 1328, Statutes of 1989), SB 493 (Chapter 194, Statutes of 1995); the annual State Budget; the Health and Safety Code, Sections 104350-104480, 104500-104545; and the Revenue and Taxation Code, Sections 30121-30130. The enabling legislation, the various codes and the annual State Budget, provide legislative and funding authority for programs administered by CDHS/TCS to:

- Conduct health education interventions and behavior change programs at the state level, in the community and other non-school settings
- Apply the most current research and findings
- Give priority to programs that demonstrate an understanding of the role community norm change has in influencing behavioral change regarding tobacco use

C. The State of Tobacco Control in California

Since its inception, the Tobacco Control Program has frequently faced overwhelming challenges. It has, nevertheless, had an enormous impact. The following information should be considered as LLAs develop their 2004-2007 CTCPs.

1. Program Accomplishments

- **Consumption:** From 1988 to 2001, per capita cigarette consumption in California has fallen by 60 percent, almost twice the amount of the decline seen in the rest of the nation (*California State Board of Equalization*).
- **Tobacco-Related Diseases:** Overall incidence rates for tobacco-related cancers decreased 12 percent among men and 8 percent among women in California from 1988-1999. Six out of nine tobacco-related cancers had a lower incidence rate in California than the rest of the United States in 1999. These were cancers of the lung, larynx, esophagus, bladder, pancreas and kidney (*Tobacco and Cancer in California, 1988-1999*).
- **Adult Prevalence:** When Proposition 99 passed in 1988, the adult smoking prevalence in California was 22.8 percent. According to the Behavioral Risk Factor Surveillance System (BRFSS), which provides comparable state-specific estimates of adult smoking prevalence, the smoking rate among California adults in 2001 was the second lowest in the nation at 17.2 percent, behind Utah at 13.3 percent (*MMWR, 2001*). In 2002, the adult smoking prevalence was 16.6 percent (*California Adult Tobacco Survey (CATS), 2002*).
- **Youth Prevalence:** California has seen significant reductions in youth smoking rates. The California Student Tobacco Survey shows that smoking in California among 10th grade students declined by 47 percent since 1996 from 27.8 percent to 14.8 percent in 2002. Additionally, the rate among 8th graders went from 16.9 percent in 1996 to 6.4 percent in 2002.
- **Secondhand Smoke:** Californians also enjoy more protection from the health risks of exposure to secondhand smoke than the residents of any other state. As a result of the enactment in 1994 of California's Smoke-free Workplace Law, Labor Code Section 6404.5, 96.4 percent of California indoor workplaces, including restaurants, bars and gaming clubs, are now smoke-free (*California Tobacco Survey (CTS) 2002*).
- There is an extraordinarily high level of public support for smoke-free indoor air policies. More than 90 percent of all California adults, including 76 percent of smokers, feel that all indoor workplaces should be smoke-free (*CATS, 2002*).
- According to the CATS and BRFSS surveys, 80.7 percent of people with children under 6 years of age prohibit smoking in the home.

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Close to 83 percent of non-smokers and 71.2 percent of smokers with children under 6 years of age prohibit smoking in the home.

- **Program Activities and Behavior:** According to the Independent Evaluation of the California Tobacco Control Program, there are statistically significant relationships between program activities and smoking behavior. For example, in counties where more adults were exposed to tobacco control messages through at least two different components (media, community, and/or school), adult smoking prevalence declined between 1996 and 2000. In these counties, the percentage of adults who asked someone else not to smoke also increased.
- **Local Policies:** Local California jurisdictions adopted 63 tobacco control policies between July 1999 and June 2002. These policies included tobacco retailer licensing, zoning limitations where tobacco-only stores can open, self-service display bans, and smoke-free zones in outdoor dining facilities and around doorways.
- **State Laws:** The proliferation of smoke-free policies at the local level created the impetus to introduce and pass statewide smoke-free laws, thus further protecting Californians from secondhand smoke. Smoke-free playground laws (AB 188 and AB 1867) (Health and Safety Code Section 104495) and a smoke-free doorway law for government buildings (AB 846) (Government Code Sections 7596-7598) were signed by Governor Davis in 2001, 2002, and 2003, respectively.

2. Program Challenges

Despite numerous successes in tobacco control, smoking remains the leading cause of preventable death and disability in California. Tobacco use and exposure to secondhand smoke kill over 43,000 smokers and 5,000 nonsmokers every year in California, along with hundreds of thousands more suffering from tobacco-related diseases and the premature loss of loved ones.

California remains one of the most linguistically diverse states in the country, with 60.5 percent speaking only English. This diversity can create challenges in addressing tobacco control needs.

Tobacco Marketing in California

- Tobacco-Sponsored Events. In 1999, there were 297 tobacco-sponsored public events in California. In 2001, there were 65 events, which were mainly rural and urban rodeos. This reduction was

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due primarily to consolidation of sponsorship contracts by the tobacco corporations following the Master Settlement Agreement (MSA), and RJ Reynolds' discontinuation of the Winston Weekly Racing Series to avoid youth involvement (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).

- Print Advertising. National magazines with high California readership had relatively high levels of tobacco advertising (3.1 pro tobacco ads per issue). These national magazines provide an opportunity for integrating campaigns found in bars and clubs, in addition to tobacco-sponsored events and direct mail (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).
- Bar and Club Promotions. While there may be fewer bars with weekly ads promoting tobacco-sponsored bar and club nights in the major urban centers of California, they are emerging in smaller communities and rural areas (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).
- Retail Outlets. Retail advertising of tobacco products is very high, with an average of 25.0 materials per store in 2002 (*Tobacco Industry Monitoring Evaluation Project*). Compliance with provisions of the Stop Tobacco Access to Kids Enforcement (STAKE) Act still remains low. In 2003, 51.8 percent of stores displayed the STAKE Act sign, up from 32.4 percent in 2001 (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).
- Countering Pro-Tobacco Influences. Between 1996 and 2000, there was a significant increase in the percentage of individuals who believed that cigarette advertisements make young people want to start smoking and that advertising should not be allowed where youth will see it, such as at sports or community events, on billboards, and in magazines read by youth (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).
- Motion Picture Industry. A two-year study of over 3,500 children ages 10-14, found that 52 percent of them who started smoking during the study were primarily influenced by the smoking they saw in the movies (compared to 34 percent primarily influenced by traditional tobacco advertising (Dalton, M.A., Sargent, J.D., Beach, M.L., Titus-Ernstoff, L., Gibson, J.J., Ahrens, M.B., Tickle, J.J., Heatherton, T. F.. Effect of Viewing

Smoking in Movies on Adolescent Smoking Initiation: A Cohort Study. *The Lancet*, June 2003; 361 (9373)).

Reducing Secondhand Smoke

- Outdoor Tobacco Smoke. Californians support continued efforts to extend secondhand smoke protections to outdoor public places. In 2001, 82.5 percent strongly or somewhat agreed that outdoor entertainment venues such as stadiums, zoos, and fairgrounds should have designated smoking and nonsmoking areas (*Field Poll, 2001*).
- In 2000, 76 percent of respondents felt smoking was unacceptable in bus shelters, 72 percent felt it was unacceptable at building entrances, 65 percent felt it was unacceptable in public places such as zoos, and 62 percent felt it was unacceptable at outdoor dining establishments (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).
- A Field Poll conducted in 2001 showed strong support for smoke-free outdoor areas, including playgrounds, building entrances, outdoor entertainment areas and outdoor dining areas. Eighty-eight percent, 76 percent, 82.5 percent, and 77.3 percent, respectively, strongly agreed or somewhat agreed that these areas should be smoke-free or have designated smoking areas.
- Enforcement/Compliance. Local Tobacco Control program efforts to encourage enforcement of secondhand smoke laws was associated with increased compliance, which resulted in decreases in adult exposure to workplace secondhand smoke between 1998-2000. Therefore, enforcement is the critical link between law and compliance.
- Rural Bar Compliance. Compliance with the smoke-free bar law in rural areas is increasing. Bar patrons in rural areas reported seeing fewer violations of the law in 2000 (51 percent) than in 1998 (58 percent) (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).
- Special Populations. Nonsmokers at greatest risk of exposure to secondhand smoke at home on a daily basis included African Americans and those 18-24 years of age. Hispanic/Latinos and those with less education were at highest risk for exposure to secondhand smoke at work (five or more days per week) (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).

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- Homes and Cars. In 2002, 11 percent of nonsmoking adults reported exposure to secondhand smoke in the homes, compared to 18 percent in 1996 (*California Tobacco Survey, 2002*).
- Common Indoor Areas. In the 2001 Field Poll, 82.5 percent of respondents strongly or somewhat agreed that common areas within apartments and condominium complexes should be smoke-free, and 85.6 percent strongly or somewhat agreed that hotel and motel lobbies and common areas should be smoke-free.

Reducing Tobacco Availability

- After two years of retailer increases in illegal tobacco sales to children, tobacco sales to minors fell to the lowest rate ever experienced in California in 2003: 12.2 percent. This was a reduction from 19.3 percent in 2002, and 17.1 percent in 2001 (*California Youth Tobacco Purchase Survey, 2001-2003*).
- Friends are the primary social source of cigarettes for youth. Strangers who are asked to buy cigarettes for minors tend to be smokers, younger adults, males and those with lower incomes (*California Tobacco Survey, 2002*).
- Between 1996 and 2000, there was a significant increase in the number of enforcement agencies that issued citations to both minors (from 60 percent to 91 percent) and merchants (from 50 percent to 71 percent), but the majority of the increase was between 1996 and 1998, with no significant increases between 1998-2000 (*Final Report of the Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3, 1996-2000*).

Economic Toll of Smoking

- Smoking costs in California are nearly \$16 billion annually, amounting to \$3,331 per smoker and \$475 per Californian (*The Cost of Smoking in California, 1999*).
- Tobacco use kills 43,000 Californians each year or almost one in five Californians will die from tobacco-related causes. This represents \$5.7 billion in lost productivity and 535,000 years of potential lives lost, or 12.4 years lost per death (*The Cost of Smoking in California, 1999*).
- There are 4.7 million Californians still smoking, including 4.5 million adults and 207,000 adolescents (*The Cost of Smoking in California, 1999*).

- The cost of smoking annually for males in California is \$9.4 billion; for females it is \$6.3 billion (*The Cost of Smoking in California, 1999*).

Priority Populations

- Tobacco disparities continue to exist for communities of color, low socioeconomic status groups, and other priority populations. The ever increasing targeting by the tobacco industry to these populations has contributed greatly to these disparities.
- There is a higher prevalence of tobacco use and greater exposure of individuals to secondhand smoke in priority populations, which often results in a higher prevalence of tobacco-related diseases, such as stroke, heart disease, lung cancers, oral cancer, and other cancers and respiratory diseases.
- Gays' and lesbians' smoking prevalence remains considerably higher than the state average at 33.2 percent and 25.3 percent, respectively. Bisexual males' smoking prevalence is lower than female bisexuals' prevalence at 19.9 percent and 27.3 percent, respectively. This compares to heterosexual males and females at 21.3 percent and 14.9 percent, respectively (*California Health Interview Survey, 2001*).
- Tobacco industry advertising has openly targeted gays and lesbians since 1992, when Philip Morris began running ads for Benson & Hedges' Special Kings in *Genre* magazine. Philip Morris' advertising in *Genre* met with outrage from the Coalition of Lavender Americans on Smoking and Health (CLASH). The ads stopped running in *Genre* but continued to appear in *Esquire* and *GQ*, both magazines with high gay readership (Goebel K. *Lesbians and gays face tobacco targeting. Tobacco Control 1995; 3:65-67*).
- While the smoking prevalence of males from the four main ethnic groups (African American, Asian/Pacific Islander, Latino, and Non-Hispanic Whites) has declined since data was collected in 1990, African American males had one of the highest smoking prevalence of any ethnic/racial group at 23.9 percent in 2002. Asian/Pacific Islanders males have the lowest prevalence at 18 percent (*California Tobacco Survey, 2002*).
- In 2002, Asian Pacific Islander females have the lowest smoking prevalence at 6.8 percent, closely followed by Latino females at 7.2 percent (*California Tobacco Survey, 2002*).

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- In 2001, American Indians overall had the highest adult smoking prevalence rate of any ethnic group in California. Male prevalence rates were 29.2 percent and female prevalence rates were 31.5 percent (*California Health Interview Survey, 2001*).
- California American Indian women have over twice the smoking prevalence rate of other female smokers, 31.5 percent and 14.1 percent, respectively (*California Health Interview Survey, 2001*).
- American Indian and Alaska Native youth have higher current smoking rates than youth in other racial/ethnic groups. Twelfth grade American Indian and Alaska Native boys smoking prevalence rates were 41.1 percent, followed by Non-Hispanic whites (33.4 percent), Hispanics (28.5 percent), Asian Americans and Pacific Islanders (20.6 percent) and African Americans (11.6 percent). Similar patterns are seen among 12th grade girls at 39.4 percent, 33.1 percent, 19.2 percent, 13.8 percent, and 8.6 percent, respectively (*Tobacco Use Among U.S. Racial/Ethnic Minority Groups-African-Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islands, and Hispanics: A Report of the Surgeon General, 1998*).
- In 1999, among Asian sub-populations in California, Koreans had a smoking prevalence rate of 21.6 percent. Japanese, Chinese and Filipino smoking rates were similar at 14.2 percent, 12.1 percent and 13.4 percent, respectively (*California Tobacco Survey, 2003*).
- Hispanic/Latino women and Chinese, Filipino and Korean women, who speak English at home, are significantly more likely to smoke cigarettes than are those who speak their native languages at home, partly reflecting acculturation issues. However, this trend was not observed among men (*California Tobacco Survey, 2003*).
- In 2002, Non-Hispanic Whites who were of low socioeconomic status (combination of income and education) had the highest prevalence of smoking at 30 percent, followed by African Americans at 25.4 percent. This trend is also seen in gender breakdowns: Low income Non-Hispanic White males had the highest prevalence of smoking at 34.1 percent, and low-income Non-Hispanic White females had the highest prevalence of smoking at 26.5 percent (*California Tobacco Survey, 2002*).
- African American children and adolescents continue to be the least protected from exposure to SHS in the home (*California Tobacco Survey, 2003*).

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- Hispanics are the least likely to report working in a smoke-free environment; however, the percent reporting exposure to SHS in the workplace has steadily declined since 1990 (*California Tobacco Survey, 2003*).

D. California's Tobacco Control Program Priorities

The California Tobacco Control Program has four broad program priorities. These four priorities and the rationale for them are discussed below:

1. Counter Pro-Tobacco Influences in the Community

Tobacco industry advertising and promotions are major social and economic forces aimed at promoting tobacco use. While the 1998 MSA with the tobacco companies mandated changes in the behavior of the industry, including specific prohibitions against advertising and promotional strategies that target youth, eliminating tobacco industry influence in local communities remains one of the highest priorities for California's tobacco control program. The tobacco industry continues to maintain massive expenditures on advertising and promotion campaigns. As a result, Californians are exposed to saturation levels of media, which both stimulate adult consumption of cigarettes and increase the risk of youth initiation. Tobacco companies sponsor and strategically target specific community events, such as rodeos, festivals, concerts and ethnic-specific cultural events to create the perception that the use of tobacco is condoned by those events and is glamorous, social and normal. In addition, the motion picture industry has increasingly dramatized the use of tobacco in movies, thus aiding in recruiting thousands of new adolescent smokers.

Counter-marketing strategies can have a powerful influence on public support for tobacco control and set a supportive climate for school and community-based efforts. Counter-marketing activities can promote smoking cessation and decrease the likelihood of initiation. Counter-marketing consists of a wide range of efforts, including paid television, radio, billboards and print ads. Media advocacy and other public relations techniques include press releases, local tobacco-free events and health promotion activities, as well as efforts to reduce or replace tobacco industry sponsorship and promotions. Research on counter-marketing suggests that successful media interventions must have sufficient reach, frequency and duration.

Countering pro-tobacco influence strategies include:

- educating the public and high risk groups
- developing interventions to weed out the harmful tobacco industry presence in California's communities, including racial and ethnic

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groups, lesbian, gay, bisexual, and transgender (LGBT), and low SES (socioeconomic) groups

- tracking and reporting tobacco industry MSA violations
- enacting local policies to reduce exposure to tobacco advertising and promotions
- creating alternative sponsorship opportunities
- countering efforts to block or weaken regulation of tobacco or existing tobacco control policies
- passing local resolutions supporting smoke-free movies

In addition, because of the increase in smoking among young adults (18 to 24 year olds), strategies are needed to impact this population and counter tobacco industry tactics that position tobacco use as “edgy” and “cool.”

See pages 13-18 in the Communities of Excellence Needs Assessment Guide (November 2003) for specific indicators within this priority area.

2. **Reduce Exposure to Secondhand Smoke and Increase the Number of Smoke-Free Public Spaces, Worksites, Schools, and Communities**

The risks of tobacco use extend beyond the actual user. Exposure to secondhand smoke increases nonsmokers' risk for lung cancer and heart disease. Among children, secondhand smoke is also associated with serious respiratory problems, including asthma, pneumonia and bronchitis, Sudden Infant Death Syndrome, and low birth weight. Protecting California workers and the public from the effects of secondhand smoke and helping large numbers of smokers to get the environmental support they need to quit smoking remains a high priority for California's Tobacco Control Program.

The health of nonsmokers is protected by the enforcement of public and private policies that reduce or eliminate exposure to secondhand smoke. Studies have shown that enforcement of worksite smoking bans protects nonsmokers and decreases the number of cigarettes that employees smoke during the workday. This cause and effect relationship has been substantiated on a large scale by the California experience in the overall decline in tobacco consumption and smoking prevalence. Since 1988, per capita cigarette consumption has declined 60 percent in California. The average daily cigarette consumption reported by everyday smokers was 15.1 cigarettes per day in 2002, a 16 percent decline from 1994. The proportion of current smokers who are considered light or non-daily smokers has steadily increased in California.

In 1994, the California State Legislature enacted the Smoke-Free Workplace Act, Assembly Bill (AB) 13 (Labor Code Section 6404.5). This law prohibited smoking in most enclosed worksites with limited

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exemptions. January 1, 1998 ushered in the second phase of Labor Code 6404.5, which extended the no smoking policy to bars, taverns, and gaming clubs. Education was provided by all Prop 99-funded agencies to employers, employees and the public about the health effects of secondhand smoke and the need for restrictions. These efforts continue to build support for the restrictions and increase compliance with the law. Continued enforcement activities, including reporting violations of clean indoor air ordinances and laws and prompt investigation, along with a graduated series of civil warnings and penalties, also remain critical to the continued success of Labor Code 6404.5.

Additionally, the importance of addressing workplaces not covered through AB 13, such as work sites with under five employees, American Indian casinos, motel lobbies, and apartment units in California is critical. Several American Indian-owned worksites in California, including casinos, are beginning to establish smoke-free policies, but much work still remains to be done to protect workers.

Since state and local laws cover most smoke-free indoor areas, outdoor smoke-free areas are the next wave of tobacco control in California. Public polling has consistently shown strong support for smoke-free outdoor areas including entertainment venues, doorways, and parks.

In 2001, AB 188 (Health and Safety Code Section 104495) was signed into law, establishing smoke-free playgrounds and tot lots. In 2002, the law was extended to smoke-free boundaries within 25 feet of playgrounds (AB 1867). On January 1, 2004, another law protecting Californians took effect. AB 846 (Government Code Sections 7596-7598) prohibits smoking within 20 feet of doorways in buildings owned or leased by the state, counties, and municipalities. This includes the University of California and California State University campuses, as well as community colleges. These bills may not have become law if it were not for the commitment of tobacco control programs who first passed similar policies at the local level.

See pages 19-22 in the Communities of Excellence Needs Assessment Guide (November 2003) for specific indicators addressing this priority area.

3. Reduce Availability of Tobacco Products

Almost all adult tobacco users reported having begun smoking before they became adults and were legally able to purchase tobacco. In fact, tobacco uptake follows a predictable pattern that begins with experimentation by pre-teens, progressing to intermittent use around 13-14 years of age, then regular use at 15 to 16 years of age, to becoming

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an addicted smoker around 16 to 18 years of age. According to the 2002 California Tobacco Survey, less than 5 percent of experimenters report their usual source of cigarettes through purchasing themselves; however, over 34 percent of established daily teen smokers reported purchasing cigarettes as their usual source of cigarettes. Younger youth frequently obtain cigarettes from older youth that can buy cigarettes. Eliminating tobacco sales to teens will help interrupt and break the chain of progressive addiction, in which a youth progresses from experimenting with tobacco to becoming an addicted smoker.

The California experience shows that the combination of enforcing laws that restrict tobacco sales to minors, educating merchants about the penalties for violating the STAKE Act and Penal Code (PC) Section 308(a), and frequent, unannounced retailer compliance checks can reduce illegal sales of tobacco products to minors. Overall, California has seen a significant drop in the rate of illegal tobacco sales, down from 52.1 percent in 1994 to 12.2 percent in 2003. Despite this drop, more work remains to be done. Continued interventions are needed to monitor and control the situation. Certain types of stores continue to sell tobacco at high rates. In 2003, deli, meat, and produce markets sold to minors 26.7 percent of the time, while pharmacies, donut shops, and discount “dollar” stores sold tobacco to minors 19.9 percent of the time. Local communities frequently report higher rates.

Efforts to prevent youth access to tobacco, such as the STAKE Act and PC Section 308(a) enforcement, must continue at a level that maintains California’s compliance with federal law (Synar Amendment). The Synar Amendment requires states to achieve and maintain an illegal tobacco sales rate to minors of no more than 20 percent.

Furthermore, tobacco retailers are required to post STAKE Act signs at each point of sale. A 2003 study showed that stores with STAKE Act signage sold tobacco to minors 8.1 percent of the time, while stores without STAKE Act signage sold 17.4 percent of the time. Continued monitoring of STAKE Act signage remains an important activity, as nearly half of California’s retailers (49.2 percent) do not have the STAKE Act warning signs posted (*2003 Youth Tobacco Purchase Survey*).

In June 2003, Governor Davis issued Executive Order D-68-03 to: 1) promote more collaboration between state agencies; 2) increase retailer inspections; 3) increase the presence of STAKE Act signage; 4) increase enforcement; and 5) increase penalties to retailers who do not post STAKE Act signs and sell tobacco to minors.

California’s counties and cities have experienced an increase in the passage of self-service display bans. In addition, Governor Davis signed

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SB 757 in 2001, adding Section 22962 to the Business and Professions Code, to prohibit the sale of cigarettes through a self-service display. This law, however, does not apply to tobacco products other than cigarettes. The elimination of self-service displays in stores tends to decrease adult impulse purchases, illegal sales of tobacco to minors and youth theft.

PC 308 had several amendments added in 2002. One amendment prohibits the sale, distribution or importation of bidis, which are hand-rolled filterless cigarettes that are imported from India and some Southeast Asian countries. Another adds a minimum pack size, which prohibits cigarettes from being manufactured, distributed, sold, or offered for sale in packages of less than 20.

AB 71, signed by Governor Davis in October 2003, added Business and Professions Code Sections 22970-22995, and created the California Cigarette and Tobacco Products Licensing Act of 2003. The Act requires that all tobacco retailers, wholesalers, distributors, manufacturers, and importers be licensed in California. The primary purpose of the licensing program is to reduce the amount of excise and sales taxes lost to counterfeit and smuggled cigarettes. The licensing program also contains provisions that address the illegal sales of tobacco to minors that only go into effect when the statewide youth purchase survey rate is 13 percent or higher. The licensing program sunsets in 2010 and is not preemptive.

LLAs can further reduce the availability of tobacco products through stronger local policies. For example, a local tobacco retail licensing policy does not have to use a provision similar to AB 71, where licenses can only be suspended or revoked if the youth purchase survey rate is 13 percent or higher. Local tobacco retail licensing provides the municipality or other government entities the authority to fine or revoke the license of those retailers who violate tobacco-related laws. Additionally, passing conditional use permits can limit the location and number of retailers who sell tobacco in a specific jurisdiction.

See pages 23-25 in the Communities of Excellence Needs Assessment Guide (November 2003) for specific indicators addressing this priority area.

See Piecing It Together: Tobacco Laws Affecting California (February 2003) by the Technical Assistance Legal Center (TALC) for an excellent overview of all laws governing tobacco in California.

4. Promote Availability of Cessation Services (optional)

Smoking cessation is the desired outcome of all initiatives and activities of California's Tobacco Control Program that create new social norms

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around the use of tobacco. Since social norms have shifted from the acceptability of smoking, and cigarette prices have risen substantially, more smokers than ever are trying to quit. More than three out of every four California smokers say they would like to stop smoking.

Past experience demonstrates that the media campaign, coupled with the California's Smokers' Helpline and supported at the community level by cessation programs, successfully assist youth and adult smokers in quitting.

Smoking cessation is a complex and often-extended process with several repeated quit attempts until success is achieved. As social norms shift away from its acceptability and more smokers become aware of health issues related to smoking, the level of motivation to quit across the entire population of smokers increases, and motivation by smokers to quit on their own increases. As such, cessation becomes the outcome rather than the intervention. However, there is a downside. Some smokers may switch to smokeless tobacco or "harm reduction" products to avoid the social negative stigma of being a smoker or to avoid exposing others to secondhand smoke. They may be misled into believing that such products may reduce risk of disease, when in reality, there are no safe tobacco/nicotine products.

While recognizing that in California, the majority of former smokers report quitting without direct cessation services, CDHS/TCS will continue to fund some direct cessation. LLAs are encouraged to publicize the availability of the California Smokers' Helpline, which offers counseling in English, Spanish, Vietnamese, Korean, Mandarin and Cantonese, and has tailored services for chew tobacco users, hearing impaired, youth, and pregnant women. Also, many LLAs provide direct cessation services at no cost or for a nominal fee. **CDHS/TCS permits no more than 10 percent of the LLA's allocation to be spent on direct cessation services.**

In addition to providing direct tobacco cessation services, LLAs can also promote system changes that support population-based cessation services, such as introducing cessation in large managed care plans, coordinating with low income clinics that serve priority populations, providing physicians, nurses, dentists and dental hygienists with training to establish systematized patient education and treatment programs in private offices and clinics, cooperating with the American Cancer Society to sponsor the local Great American Smokeout, etc.

See pages 26-27 in the Communities of Excellence Needs Assessment Guide (November 2003) for specific indicators for this priority area.

I. Introduction

E. Collaboration with Schools and TCS-Funded Projects

County Offices of Education

LLAs are encouraged to collaborate with County Office of Education Tobacco-Use Prevention Education (TUPE) Program Coordinators and Local Education Agency (LEA) TUPE Program Coordinators to reduce tobacco use prevalence among youth and to reduce exposure to secondhand smoke.

Suggestions for possible collaboration at the local level include, but are not limited to:

- Meeting with LEA superintendents to discuss district and community support of TUPE programs in schools
- Co-sponsoring trainings when community and school programs are using the same evidence-based curricula
- Participating on each others' advisory coalitions
- Working together to assess LLA's Communities of Excellence indicators relative to schools and LEA's Needs Assessment indicators relative to the community
- Focusing an LEA parent education session on reducing secondhand smoke in the home
- Linking school Community Service or Service Learning requirements with community youth tobacco control interventions
- Encouraging youth development and empowerment by allowing students to attend state and local advocacy networking opportunities (i.e., California Youth Advocacy Network)
- Working with local health providers to facilitate evidence-based curricula lessons at schools
- Working together to bring youth cessation services to school campuses and the communities

LLAs should also refer to *the Local Lead Agency Administrative and Policy Manual*, Policy #13 for additional suggestions for collaborating with schools.

Other CDHS/TCS Funded Projects

CDHS/TCS funds and oversees a variety of community and statewide projects. Please see **Appendix 1** for more information.

II. GENERAL INFORMATION

A. General Allocation Agreement Information

1. Projected Allocations - Fiscal Years 2004-2007

Approximately \$15,500,000 will be allocated to the LLAs in fiscal year (FY) 2004-2005, \$15,000,000 in FY 2005-06, and \$14,500,000 in FY 2006-2007, using the formula outlined in the enabling legislation.

Appendix 2, "CDHS/TCS Local Lead Agency Allocation Table," will help you plan your programs through June 30, 2007. This table reflects the estimated allocations for FYs 2004-2005, 2005-2006, and 2006-2007, which are based on revenue projections that reflect an anticipated decrease in revenue due to the decline in cigarette consumption. This chart will be revised based on the proposed allocation as presented in the Governor's Budget Highlights in January or the May Revision of each year.

CDHS/TCS will notify you regarding any subsequent changes to the allocations made by the Legislature or Courts and request plan revisions.

Interest earned on prospective payments or generated revenue will not be included in the budget projections. Interest and generated revenue will be reported only through the Cost Report process for the fiscal years noted above.

2. Allocation Agreement Term

All LLA allocation agreements and plans will be funded for the time period of July 1, 2004 through June 30, 2007. New plans will be developed every three years.

3. Noncompliance

If an LLA is non-compliant with the CTCP, Section 104400 of the Health and Safety Code provides CDHS/TCS the authority to terminate the LLA's agreement and recoup any unexpended funds. CDHS/TCS may reallocate the unexpended funds to provide services through an agreement with a different governmental or private nonprofit agency capable of delivering the services as described in the Guidelines.

B. Submission Information

LLAs must submit a new CTCP for the period of July 1, 2004 through June 30, 2007. The plan must be submitted electronically through the Online Tobacco

II. General Information

Information System (OTIS) by **April 28, 2004**. It is the LLA's responsibility to ensure its computer hardware and software will allow for electronic submission by the due date. Agencies, at a minimum, will need an Internet browser. We recommend Microsoft Internet Explorer v. 6.0. If you use Netscape, please be aware that it tends to have programming "bugs" which are not controllable by CDHS/TCS or its server.

C. Information Meeting and Technical Assistance Session

1. **Information Meeting.** An Information Meeting has been scheduled. An overview of the 2004-2007 LLA Guidelines and content workshops will be provided. Three LLA staff are encouraged to participate in the General Session. We recommend that the Project Director (or person responsible for writing the Scope of Work), the fiscal staff person (one representative), and the project evaluator attend the meeting. **At least one individual from each LLA is required to attend the General Session.**

Date/Time: Newcomers' Session: January 14, 2004 (AM)
General Session: January 14 (PM) and January 15, 2004

Location: Sacramento Sheraton Hotel

2. **Technical Assistance (Optional).** A Technical Assistance session has been scheduled to assist the LLAs in writing their objectives, developing their evaluation plans, and preparing their budget. Attendance is optional.

Date/Time: March 23-24, 2004 (9:30 AM – 4:00 PM)

Location: Sacramento Marriott, Rancho Cordova

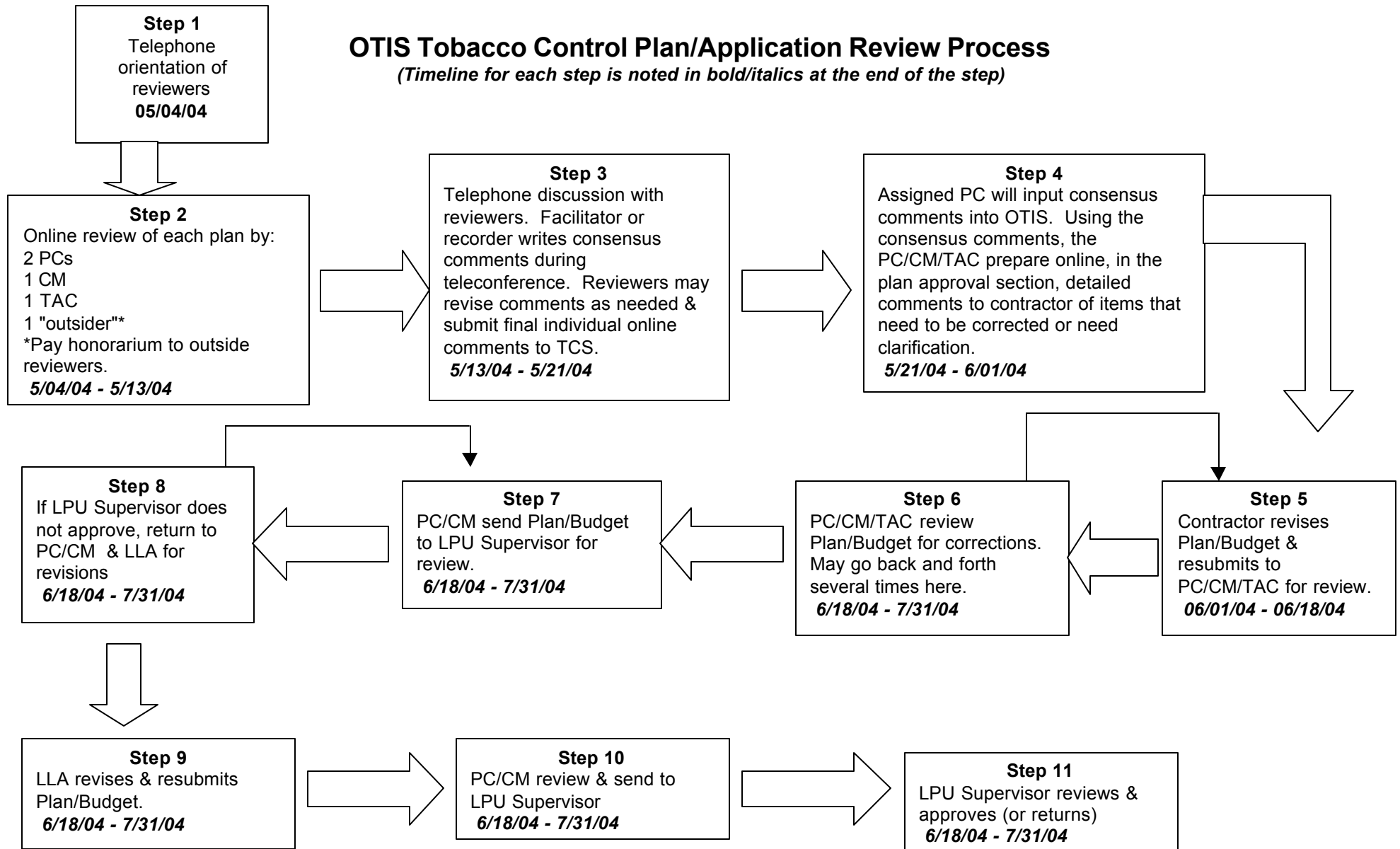
D. Review Process

The application review process will be conducted online and includes the 11 steps provided in the following chart.

II. General Information

OTIS Tobacco Control Plan/Application Review Process

(Timeline for each step is noted in bold/italics at the end of the step)



II. General Information

E. Tentative Timeline

Please note that this timeline is subject to change.

CDHS/TCS will approve the plan in increments and you will be able to implement components of the plan as they are approved, rather than waiting for the entire plan to be approved. Through OTIS, CDHS/TCS will provide the LLA with comments related to items that need to be revised or clarified before they will be approved. Conference calls will supplement the written comments. In-person negotiations will be arranged if necessary and as permitted by current travel restrictions on state employees. This process will occur during the Negotiations/Revisions timeframe noted below. All components of the plan must be approved no later than September 30, 2004.

Prospective payment invoices for the July-September 2004 period will be released as soon as CDHS/TCS has a signed Acceptance of Allocation Agreement and a signed state budget. The October-December 2004 prospective payment invoice may be withheld from processing if the allocation agreement is not signed and/or the plan is not completely approved by September 30, 2004.

Guidelines Released	January 6, 2004
Information Meeting (required)	January 14-15, 2004
OTIS trainings	Week of March 15, 2004
Technical Assistance Sessions (optional)	March 23-24, 2004
Online Plans due to Tobacco Control Section	April 28, 2004
Internal Review Conducted	April 28 – June 1, 2004
Allocation Agreements Mailed to LLAs	May 2004
Negotiations/Revisions	May 28 – June 30, 2004
Allocation Agreement Start Date	July 1, 2004

III. ADMINISTRATIVE & PROGRAM REQUIREMENTS

The following information is provided to remind LLAs of CDHS/TCS procedures, requirements, and expectations.

1. LLAs are expected to expend funds in accordance with the negotiated line item budget. If changes in line items, salary ranges, or staffing patterns need to be made, the LLA must request a budget revision. It is at the discretion of CDHS/TCS whether or not to approve the requested budget revision.
2. LLAs are expected and legally bound to deliver the services as stated in the Scope of Work. This includes serving the number of people identified, conducting the stated number of activities, developing the identified educational materials, etc. If changes need to be made in the Scope of Work, the LLA must contact CDHS/TCS to discuss the issue and request a Scope of Work revision. It is at the discretion of CDHS/TCS whether or not to approve the request.
3. LLAs are expected to meet allocation agreement requirements (including progress reports, cost reports, etc.) satisfactorily. It is at the discretion of CDHS/TCS to decide to withhold Prospective Payment Invoices and/or recover payment of funds prior to the LLA correcting the deficiency.
4. LLAs are expected to refer to and comply with the LLA Administrative and Policy Manual. This manual is referenced in the allocation agreement terms and, as such, is an agreement document. The Scope of Work and Budget must be consistent with the policies and procedures found in the Policy Section of that manual. Please review the Policy Section and pay particular attention to those policies addressing incentives, promotional items, sponsorship, and lobbying. The Policy Section is also posted on the CDHS/TCS web site at: www.dhs.ca.gov/tobacco.
5. LLAs are expected to maintain accounting records that reflect actual expenditures (including, but not limited to accounting books, ledgers, payroll records, signed time sheets, etc.) and follow standard accounting procedures and practices that properly reflect all direct and indirect expenses related to this allocation agreement. These records shall be kept and made available for three (3) years from the allocation agreement termination date and after final payment is received from the State.
6. LLAs are expected to maintain accurate records regarding program implementation, which document the number of people served, materials developed, activities conducted, etc. It is expected that these documentation records may include, but will not be limited to activity logs, sign-in sheets, meeting minutes, survey and evaluation data, etc. It is recommended that the LLA establish documentation files by objective or major activities. Planning minutes, media outreach, and sign-in sheets, etc., are best filed in the objective-specific file as activities are completed. These records shall be kept and made available for three (3) years from the

allocation agreement termination date and after final payment is received from the State.

7. LLAs are expected to have proficient personnel to submit to CDHS/TCS timely, accurate and complete progress reports and cost reports every six (6) months using the forms and format provided by CDHS/TCS.
8. LLAs are expected to hire program and fiscal/administrative staff with the appropriate training and experience to fulfill all program-related deliverables as well as to fulfill payroll, accounting and administrative procedures.
9. LLAs are expected to maintain the current LLA Administrative and Policy Manual and the OTIS User Guide. These manuals contain the comprehensive tobacco control plan guidelines, CDHS/TCS Policies, and procedures for administrative tasks such as progress reports, cost reports, etc.

IV. PRINCIPLES OF PROGRAM OPERATION AND FRAMEWORK FOR THE 2004-2007 LLA CTCP

The principles of operation for the Local Lead Agency Program and the overall framework for the CTCP are described below.

1. Create and maintain a diverse community coalition.
2. Recognize and plan for the diverse ethnic and cultural differences in each community.
3. Collaborate with diverse partners to bring more skills, ideas and resources to tobacco control.
4. Focus on community-norm change strategies as opposed to individual behavior change.
5. Build the capacity of local communities and agencies to address tobacco control activities.
6. Mobilize the community to support educational, policy and enforcement activities.
7. Strategically use paid media and public relations.
8. Institutionalize programs into existing social and health service delivery systems.
9. Coordinate local services and statewide initiatives between Proposition 99 funded agencies, government agencies, voluntary health organizations, schools, community-based organizations and others involved in tobacco control to maximize resources and avoid duplication.
10. Actively promote statewide toll-free numbers for the California Smokers' Helpline (1-800-NO-BUTTS) and the Stop Tobacco Access to Kids Enforcement Act (1-800-5 ASK-4-ID).
11. Communicate with statewide contractors (see Appendix 1) to avoid duplication in the development of materials, to develop sound policies, and implement effective community organizing strategies.
12. Build the Scope of Work around the CX Needs Assessment findings and the following four priority areas and community assets.
 - Counter Pro-tobacco Influences
 - Reduce Exposure to Secondhand Smoke
 - Reduce the Availability of Tobacco
 - Promote Tobacco Cessation Services (optional)
 - Assets (optional)
13. Develop and implement a comprehensive tobacco control plan that includes at least one objective for each of the three non-optional priority areas, of which two must reflect one of the 13 core CX indicators (unless otherwise instructed by TCS).
14. Conduct an evaluation of local program effectiveness for each objective:
 - Involve a qualified evaluator in the development of the SOW
 - Use at least 10% of the budget for evaluation
 - Evaluate measurable outcomes

- Conduct an in-depth evaluation for at least the three primary objectives, two of which are to be developed from the 13 core CX indicators.
15. Evaluation Reports. When writing final evaluation reports for the “primary objectives,” LLAs must follow the procedures in the Tell Your Story: Guidelines for Preparing an Evaluation Report. This document may be obtained online at www.dhs.ca.gov/tobacco or on the C-STATS website at <http://webtecc.etr.org/cstats/index.cfm?fuseaction=resources.main>.

Evaluation reports include both outcome and process data and describe the relationship between the norm change objective and outcome. The results can be descriptive (qualitative) or numerical (quantitative), as long as they describe what was done (project activities and intervention methods), whether expected outcomes were achieved, and what was learned. The evaluation report must include the following components for each objective:

- Cover or Title Page
 - Abstract
 - Project Description
 - Evaluation Methods
 - Presentation of Results
 - Discussion and Recommendations
16. LLAs will be held accountable for fully completing the deliverables in their Scopes of Work. The percent of work values will be used at the end of the agreement to determine overpayment for work if the deliverables are not completed.

V. TOBACCO CONTROL SECTION OPERATING PRINCIPLES

CDHS/TCS has developed the following program operating principles for tobacco education activities in the state.

CDHS/TCS is committed to providing leadership and resources to achieve a 75 percent reduction in tobacco use in California (currently at 60 percent). CDHS/TCS advocates a social norm that creates a tobacco-free lifestyle and environment for all Californians. Toward this ends, CDHS/TCS encourages programs to:

1. Empower local decision-making through broad-based community participation.
2. Recognize cultural diversity and maintain respect for cultural traditions.
3. Encourage innovative and multi-dimensional models for health education.
4. Create a partnership among communities, schools, worksites, health care organizations, and government.
5. Recognize individual and community rights to self-determination.
6. Recognize the likely need and be prepared for major shifts in program emphases as conditions change.
7. Recognize the critical importance of using interventions that focus on involving the family and community rather than only individuals. The programs must tap into the social context of individual behavior. Individuals, whether young people or adults, interact within a vast complex of relationships, organizations, peer and reference groups, as well as work, personal growth, religious, and recreational activities.
8. Recognize the paramount importance of program cost-effectiveness. In order for programs to be replicable throughout California, they must be financially feasible. There are a number of ways cost-effectiveness can be enhanced:
 - a. Institutionalize interventions into worksites, schools, community networks and the health care system.
 - b. Emphasize interventions that create generational change. This is particularly important in regard to young people. We know, for example, that youth are more likely to use tobacco if their parents use tobacco. Therefore, reaching parents and other intermediaries such as coaches can help break the chain and reduce program costs over time.

- c. Emphasize interventions that last. Policy development is of key importance to changing community norms about tobacco. Social norm change through organizational, community, and business policies, whether creating a smoke-free workplace or school, a community ordinance to restrict the tobacco industry, or a commitment from a community or educational institution not to accept tobacco industry money to support sports or cultural events, all have lasting impact on thousands of people.
- d. High-risk priority populations must be major targets of programs since they are major targets of the tobacco industry. The tobacco industry is a heavy sponsor of organizations that target these populations and is especially responsible for the proliferation of advertising directed to priority population communities.

VI. COMPREHENSIVE PLAN REQUIREMENTS

A. General Requirements

1. **READ ALL INSTRUCTIONS (on subsequent pages and in the OTIS User Guide) CAREFULLY.** Submit your plan by the date and time specified. Be sure to include all the information requested in the electronic filing process. Specific instructions for each component of the CTCP are provided in the OTIS User Guide. Review the plan carefully for completeness.
2. **DO NOT ASSUME** the reviewers have prior knowledge of the past history of your agency or previous tobacco control programs administered by your agency.
3. Print a completed copy of the plan for your files.

B. Organization of the Comprehensive Tobacco Control Plan

1. The components of the CTCP are listed below. The minimum requirements for each component are discussed on subsequent pages. Each CTCP will be reviewed and evaluated in relationship to those requirements. Specific instructions for completing each component are provided in the OTIS User Guide.
 - Agency Contact Information
 - Identification of a Local Program Evaluator
 - Demographic Profile
 - Media Profile
 - Coalition Functioning
 - Coalition Membership
 - Communities of Excellence Assessment Indicator Worksheets and Assets Worksheet
 - Scope of Work, including Intervention Activity Plan, Materials Development, Evaluation Design and Activities, and Narrative
 - Budget Justification
 - Evaluation Synopsis
 - Additional Documents
 - Non-Prop 99 Incoming Tobacco Control Funds
 - Administrative/Collaborative Activities (*Optional*)
 - Project Abstract (***Note: This will be completed AFTER your CTCP is approved by CDHS/TCS. This information will be used to create the public access project directory.***)

C. General Instructions

General Instructions Minimum Requirements

The CTCP will be reviewed and evaluated to ensure that it is consistent with the Principles of Program Operation and Framework for the 2004-2007 LLA CTCP, as well as the minimum requirements presented in this section. Other considerations are:

- All forms are complete, accurate and consistent with these instructions and those of the OTIS User Guide.
- The online application process will not accept an incomplete CTCP.

1. Agency Contact Information

Following the instructions in the OTIS User Guide, complete the Agency Contact Information, which includes general contact information, project director, fiscal contacts, health officer, and agency signatory.

2. Evaluator Profile and Letter from Evaluator

Evaluator Minimum Requirements

- One course in study design or one year of experience determining the study design for an evaluation.
- One course in evaluation or one year of experience planning and implementing an evaluation.
- Two courses in statistics or one year of experience analyzing data for an evaluation.
- Minimum of four hours of consultation in the development of the Evaluation Plans.

a. Evaluator Profile

Identify the individual designated as the Local Program Evaluator (LPE). The LPE must complete the profile in the electronic Local Program Evaluator Directory accessed at www.dhs.ca.gov/tobacco. The profile describes the LPE experience, qualifications, skills and availability, and tobacco-related publications. Once completed, LLAs can access the Directory to identify and select their Local Program Evaluator.

b. Letter from the Evaluator

The LLA evaluator must participate in the development of the Scope of Work (SOW), as evidenced by a letter from the evaluator describing his/her involvement in the development of the SOW and

the evaluation component. The letter must include the amount of time the evaluator spent with the LLA designing the evaluation. Every LLA must include this letter in the CTCP, even if the evaluator is a member of the LLA staff. Follow the OTIS User Guide instructions for uploading a copy of the letter. A signed original of the letter must be submitted to CDHS/TCS.

3. Demographic Profile

Demographic Profile Minimum Requirements

- Evidence of current demographic and geographic characteristics of the local health jurisdiction

Instructions

The LLA will identify whether the health jurisdiction represents a rural, urban or suburban community. The remaining portion of the demographic profile will be auto-entered by OTIS. Data will be provided on the population of the three largest communities, including racial/ethnic data, and same sex partner household data for the county. The data is from the 2000 U.S. Census. LLAs do not have the ability to modify the demographic data provided by OTIS.

4. Media Profile

Provide information about the top 5 major media outlets including radio, TV and print media outlets, media outlet name, and its primary language. Follow the OTIS User Guide for specific data entry.

5. Tobacco Control Coalition Functioning

Tobacco Control Coalition Minimum Requirements

- Evidence of a fully functioning adult coalition with by-laws or operating procedures that describe:
 - The organizational structure
 - A mission statement
 - A definition of roles and responsibilities of members
 - Appointment to the coalition, length of membership, and meeting frequency (the coalition must meet periodically in person)
 - An assessment of members, no less frequently than every 18 months, to monitor coalition functioning and member satisfaction using assessment instruments identified by CDHS/TCS or others acceptable to the coalition
 - The chair of the coalition is not a member of the LLA staff or health department

VI. Comprehensive Plan Requirements
C. General Instructions

- The coalition has a formal process for recruiting and orienting new coalition members
- The coalition leadership periodically provides training on working effectively in a coalition and reviews and updates operational procedures based on input from coalition members
- The LLA and coalition leadership implement a method of routine and rapid response communication with members of the coalition
- The LLA shall provide staff with logistical assistance, training, budget support, and other assistance needed by the coalition
- Coalition members are involved in meaningful roles

Instructions

For each coalition maintained by the LLA under the Prop 99-funded CTCP (not other TCS grants), include the following information:

- Name of Coalition
- Year founded
- Chair and co-chair (if applicable)
- Coalition type
- Coalition By-laws or Formalized Procedures
- Coalition membership
- Coalition size
- Identification if the coalition has a separate budget
- Meeting frequency
- Names of Subcommittees
- Coalition member recruitment methods
- Coalition membership orientation process
- Results of most recent coalition functioning survey
- Date for the next coalition survey and the instrument to be used to assess the coalition function
- Description of coalition member roles
- Task Plan for conducting the 2007-2010 Communities of Excellence Needs Assessment

See the OTIS User Guide for specific instructions for completing the Coalition Functioning Form.

6. Coalition Membership

Coalition Membership Minimum Requirements

For each coalition identify the following information:

- Evidence of a diverse membership that includes community representation that extends beyond traditional health, education and social service organizations. Membership should include ethnic or other priority population representation comparable to the make-up of the area.

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- Evidence of the participation and involvement of local community organizations with special experience and expertise in community health education against tobacco use and representation of high risk populations

Instructions

See the OTIS User Guide for specific instructions to complete the Coalition Membership Forms

- Name of Agency or group represented (for individuals, indicate “individual”, and not the person’s name)
- Constituency representation (Local Lead Agency, CDHS/TCS grantee, Education, Voluntary Health (organization), Worksite/Employer, Media related, Community Member, Law Enforcement, Health Care, and Other)
- Ethnic/racial representation
- Priority Population representation

If you have more than one coalition (i.e., an adult and a youth), complete this information for each coalition.

7. Communities of Excellence (CX) Assessment

CX Assessment Minimum Requirements

- CX Indicator Worksheets are completed for each of the 13 core community indicators (page 9 of the CX Guide), 3 additional non-core indicators (pages 13-27 of the CX Guide-November 2003) and any other indicators that were assessed
- The CX Asset Worksheet is completed for the 14 community assets (page 11 and pages 28-30 of the CX Guide)
- A total of 30 community indicators and assets are required
- Identification of the community to which the findings relate
- Identification of ethnic or other priority populations that have specific needs
- Evidence of involvement of coalition members in the CX assessment process
- Evidence that quantitative and qualitative data sources were used to support assessment findings
- Provision of brief comments to justify and support the ratings

Instructions

Complete CX Community Indicator Worksheets and the Community Assets Worksheet as described in the Communities of Excellence Needs Assessment Guide. See pages 34-63 of the CX Guide (November 2003). Use this information to complete the online worksheets following the OTIS

User Guide instructions. Complete the online worksheets for the 13 core indicators, 3 additional non-core indicators, and 14 assets.

8. Scope of Work

a. Scope of Work and Evaluation Design Description

The SOW contains all program activities to be performed by the LLA and its subcontractors that will lead to the accomplishment of measurable objectives. These might include collaboration with other agencies, trainings, direct services, policy, media, educational activities, including the development of educational materials, the development of promotional and incentive items, and the evaluation design and evaluation activities. It is the "road map" that provides the direction, activities, expected outcomes and the plan to measure the achievement of the objectives.

Preparing progress reports, cost reports, hiring and supervising staff, coalition maintenance and general collaborative activities are important administrative activities; these activities are recorded through other forms, not the SOW. For example, coalition maintenance activities are captured in the Coalition Functioning section, and routine collaboration activities are captured in the progress report using the Collaboration Tracking Form and the Coalition Activities Form. The Coalition may also appear in the "Who is Responsible" column (non-budgeted).

Specific coalition building activities designed to recruit a more diversified membership may be the focus of an objective and included in the SOW.

The budget and budget justification should closely correspond to the SOW activities, deliverables and timelines.

1) Scope of Work Overview

Scope of Work Minimum Requirements:

- A well-organized and detailed "road map" of the proposed program and evaluation, taking into account the findings from the Communities of Excellence needs assessment. Objectives must state:
 - Who or what is expected to change
 - What and how much will change (do not use ranges in the objective, e.g., achieve a compliance rate of 70 percent to 80 percent)
 - Where the change will occur

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- When the change will occur

For each objective, you must select:

- The primary and secondary (if applicable) priority area/asset to which it relates
 - The primary and secondary (if applicable) indicator or asset to which it relates
 - The target audiences to be reached by the interventions
 - Major intervention tactics
- The activities should be clearly written to describe specific outcomes
 - Activities should be detailed and quantified, including a description of the activity which explains what, how much, how often, and where
 - Each activity is to have a timeline showing start and end periods, and a person, agency, or group who is responsible for the completion of activities
 - Identify the responsible party for completing the activity (e.g., a budgeted position or a collaborative partner)
 - Identify tracking measures that verify completion of activities and whether they will be maintained on file or submitted with progress reports
 - A minimum of one objective is required for each of the three main priority areas: 1) Counter Pro-Tobacco Influences, 2) Reduce Exposure to Secondhand Smoke, and 3) Reduce the Availability of Tobacco
 - Of the three required objectives noted above, at least two objectives must be based on the 13 core CX indicators (unless otherwise instructed by TCS) -- the third objective can reflect a new or innovative area from any of the CX indicators or assets
 - An evaluation plan is provided for each objective in the SOW. The evaluation plan for each objective is to describe whether the plan is policy related (policy adoption, policy enforcement), related to collection of process data (focus groups, key informant interviews, public opinion polls, city or county council records, media activity record, training, etc.), or related to collection of outcome data

VI. Comprehensive Plan Requirements
C. General Instructions

- An in-depth evaluation plan is provided for three “primary objectives.” A “primary objective” is a high priority objective and one that will receive an in-depth evaluation such as experimental, quasi-experimental or a high level case study. Interim evaluation reports submitted with the biannual progress reports and a final evaluation report will also be required for each of the primary objectives.
- A comprehensive, integrated program approach is used to achieve objectives incorporating the following major intervention categories:
 - 1) Coordination/Collaboration Activities
 - 2) Community Education Activities
 - 3) Educational Materials Development
 - 4) Incentive Items
 - 5) Media Activities
 - 6) Mini-Grants
 - 7) Policy Activities
 - 8) Promotional Items
 - 9) School-based Education
 - 10) Sponsorship Activities
 - 11) Training/Technical Assistance Activities

(Please note that all categories need not be included for each objective, but overall, they should be incorporated throughout the entire SOW. Activities would include such methods as policy development, paid advertising, media advocacy, training, community education, coordination, and collaboration with other agencies).

- Coordination with statewide initiatives (e.g., Project SMART Money, The Center for Tobacco Policy and Organizing, Smoke-free California: Where We Live, Work, and Play, the STORE Campaign, etc.)
- Effective outreach and programs for under-served and ethnic populations
- Methods of appropriate magnitude that are sufficient to achieve objectives
- Promotion of the California Smokers' Helpline and STAKE Act toll-free numbers

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- For each activity that will involve developing new educational, incentive, or promotional items to support the SOW, include an additional activity that involves checking with TECC for assistance on the development of that item, confirming non-duplication of the item, and other appropriate steps, such as focus group testing
- For each policy objective, include an activity that conducts a strategic planning session utilizing the Midwest Academy Strategy Chart, available on the STORE website at:
http://www.tecc.org/store/stages/3_develop/t_schart.doc. LLAs are encouraged to conduct a one day strategic policy planning session once during the term of their agreement.
- A percent of effort for each major deliverable needs to be assigned. The total percent should not exceed 100 percent and no deliverable should be less than 0.5 percent. Deliverables reflect products and services developed or conducted under the agreement. Deliverables may include activities and materials, such as presentations, trainings, developed incentives items, promotional items, and educational materials, surveys and focus groups conducted, paid radio or TV ads, recruitment of members for committees, etc. Quantify all deliverables in the scope of work and assign a percent of effort to the deliverable (this can be a range of how many items, hours, days, etc.). Do not assign deliverables to those activities which help lead to achievement of the major program outcomes, such as planning meetings, creating a task force, attending coalition meetings, participating in CDHS/TCS trainings, distributing, ordering, purchasing, providing, or disseminating incentives/promotional items, and completing and submitting Progress/Cost Reports. These types of activities may contribute to the completion of a deliverable, but of themselves are not a product or service.
- At the end of the contract term, the Program Deliverable Percentage will be used to help ascertain and calculate the maximum amount of funding the LLA should receive, based upon the completion of Program Deliverables. If any Program Deliverable is not completed or not completed in its entirety, the

Program Deliverable Percentage will be used to determine a payment reduction to the LLA.

- The SOW designates products that are copyrighted.
- A start and end period for each activity needs to be assigned. Each period coincides with a progress reporting period.
- A tracking measure to verify and document completion of activities needs to be identified. These would include measures such as sign-in sheets, meeting logs, press releases, promotional and incentive items, educational materials, meeting minutes, training materials, advertisements, etc. Indicate whether or not the tracking measure will be sent in with the progress report or maintained on file (e.g., sign-in sheets are to be kept on file with the LLA).
- The person who is responsible for each activity, whether a paid staff, subcontractor or a collaborative partner needs to be identified.

2) Communities of Excellence for Priority Populations

In order to assist the LLAs in addressing priority populations in their communities, CDHS/TCS is introducing a version of Communities of Excellence (CX) specifically for priority populations (CX/PP). This new CX model will have indicators, assessment tools and sample interventions designed to be appropriate for various priority populations. The LLAs are encouraged to participate in this assessment and, based on their findings, develop at least one objective that is tailored to one or more priority population needs identified from the assessment.

Since the model will not be ready for release until January 2005, the LLAs who choose to participate in the CX/PP process need to include a planning objective in their 2004-2007 SOW that will include the CX training, the assessment implementation, development of a priority populations objective, and submission of the objective to CDHS/TCS.

The focus for this objective will be community asset
3.2: Extent to which the LLA and other TCS-funded projects in the health jurisdiction include specific objectives in their

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scopes of work to address cultural or ethnic/minority communities or populations in relation to the demographics of the community.

Below is a sample objective that includes the essential elements and lists the activities to be included in the SOW:

By June 30, 2005, complete the following: 1) conduct the CX Priority Populations (CX/PP) Assessment in 3 cities within Rainbow County; 2) compile the results and based on the assessment findings select the area of focus; 3) develop a minimum of one advocacy intervention that includes at least one objective with supporting activities and an evaluation plan; and 3) submit the SOW objective to CDHS/TCS for negotiation and approval.

Some example activities for this objective include the following:

1. From the 2003 CX Needs Assessment and other sources, determine both major priority population needs and the geographic areas where these problems prevail.
2. Convene a subcommittee from the Coalition to map out tasks and assignments for completing the assessment.
3. Identify external partners to help implement the assessment and serve on the subcommittee who represent the major priority population groups in your community.
4. Identify the community areas to target for the assessment, based on greatest diversity and known tobacco disparities.
5. Conduct the CX/PP assessment in the identified areas.
6. Compile results using the CX/PP Guide and tools.
7. Convene subcommittee members, coalition members and others representing the priority populations assessed for a strategic planning session.
 - Review assessment results with the group.
 - Prioritize results by demonstrated need and feasibility of implementing an advocacy campaign.
 - Brainstorm potential campaign outcomes and activities. This will include identifying key players, gatekeepers, messages, tasks, timelines, etc.
8. Develop a draft action plan for the SOW.
9. Participants review and make changes.

10. Finalize objective/activities/evaluation and submit to CDHS/TCS for review.

CDHS/TCS' timeline for CX/PP is as follows:

November 2003 – December 2004:

- Finalize priority population indicators
 - Synthesize results from key informant interviews and focus groups
- Conduct online indicator rating
- Draft text for the guide
- Complete additional drafts completed after outside reviews
- Pilot test the model
- Make revisions based on pilot testing feedback
- Finalize the guide

March 2004:

- OTIS trainings will provide instructions for inputting the planning objective

January 2005:

- Conduct CX/PP Training for participating LLAs
- Release the guide

January – March 2005:

- LLAs conduct their community assessments and compile the results

April 2005:

- LLAs conduct priority setting activities to select areas of focus and write objective(s)

May 2005:

- LLAs submit assessment results and the objective/activities/evaluation are submitted to CDHS/TCS

May – June 2005:

- CDHS/TCS reviews objective and conducts negotiations

July 2005:

- LLAs begin implementing the new objective(s)

3) California Online Database for Enforcement (CODE)

CODE is a state-of-the art data management system that standardizes and streamlines data collection of tobacco control laws across TCS-funded enforcement contracts. As of August 2004, all TCS-funded projects will have the capacity to perform this function, in addition to capturing data for local youth purchase surveys.

Standardizing collection of tobacco control law data and also youth purchase survey data across all TCS-funded projects will enable both local projects and CDHS/TCS to generate a variety of data reports. This will help to:

- Improve coordination and collaboration;
- Prevent duplication of effort;
- Facilitate tracking of program implementation;
- Help identify resource and training needs;
- Aid in determining what programs work, and
- Improve accountability.

If your 2004-2007 SOW features objectives or activities which focus on either the stimulation of enforcement of a tobacco control law (i.e., LC 6404.5, PC 308(a), etc.) or conducting local youth purchase surveys, please see the following examples of how to incorporate the CODE system in with these types of activities:

- Licensing Objective/Policy Activity: Utilize CODE to track retail license violations.
- Licensing Objective/Policy Activity: Conduct a minimum of one youth purchase survey a year in Sundaee County. The data from the survey results will be entered into CODE.
- LC 6404.5 Maintenance Objective/Policy Activity: Receive, track, and monitor citations issued to worksites, restaurants, bars, taverns, and gaming clubs for all of Sundaee County via the CODE system.

Refer to the OTIS User Guide for the specific instructions.

b. Instructions for Completing the Scope of Work

For each objective, a series of activities must be described that will lead to accomplishment of the objective. For each activity, provide a brief narrative description of the activity, including quantification of

how much will be done. For each activity, identify if it involves the development of a copyrighted product, start and end dates, who is responsible, tracking measures and percent deliverables.

1) Intervention Activities General Tips

The LLA SOW will be used to collect information for each objective, activity plan, and evaluation. Please note the following:

- Ranges can be used in activities, but not in objectives
- Include the number, frequency, and length of trainings/presentations/meetings, etc.
- Quantify presentations, trainings, materials, etc. to be delivered or produced
- Include activities that indicate TECC was contacted prior to the development of materials, and proper steps were taken in developing the materials, such as focus group testing.
- If conducting policy activities, include a step that a Midwest Academy strategy chart will be completed
- Place incentive and promotional items in their own separate categories
- Include the term “policy”, not “ordinance”
- Evaluation activities (e.g., surveys, focus groups, etc.) need to be in the evaluation section, not in the intervention activities section
- Be sure that the “Who is Responsible/Collaboratives” column reflects those specifically involved in conducting the activities
- If conducting technical assistance (TA) to groups, provide an estimated range of TA hours, and assign a percent deliverable
- Use only increments of .5 on deliverable percentages
- Generally, deliverables are not assigned for coordination/collaboration activities
- If a web site will be developed and actively maintained, it should include an activity that provides general statistical information on the use of the site, such as the number of hits to the specific pages of the site

Please refer to the OTIS Users Guide, which provides the specific instructions for completing the SOW.

2) Evaluation Design/Evaluation Activities

Evaluation Overview

Local program evaluation is a core component of California's Tobacco Control Program. It is as highly valued as the Program's focus on community norm change. TCS does not anticipate that diminishing resources will decrease the value and level of importance placed on local program evaluation. As resources become less, the importance of focusing the Program's efforts on those things that have the greatest public health impact become increasingly important. To that end, TCS's policy is that we do not penalize contractors for the failure to achieve objectives. Evaluation results do not affect an agency's current funding or their ability to secure funding in the future. However, failing to complete intervention and evaluation deliverables or other programmatic requirements such as timely and accurate submission of progress and cost reports does impact current and future funding.

Local program evaluation is key to answering the, "What works?" question. Unless local programs evaluate what they do and communicate their results to others, there won't be answers to this question. While some answers to the "What works?" question may come from large research studies, more often than not, established local tobacco control programs have a pulse on what works. Local projects are in the trenches and on the cutting edge of tobacco control efforts. They are trying to figure out how to:

- Address new tobacco industry marketing strategies such as bar night promotions, direct mail campaigns, couponing, and in-store promotions
- Address the unintended consequences resulting from the Master Settlement Agreement
- Address the problem of drifting tobacco smoke in multi-unit housing complexes
- Frame the tobacco issue to capture the passion of young adults
- Counter the growing acceptance with "social smoking"
- Address the problem of tobacco advertising and promotions in light of the June 2001 U.S. Supreme Court ruling in *Lorillard Tobacco Company v. Reilly*, which struck down the State of Massachusetts's regulations limiting cigarette advertising near schools and playgrounds on the grounds that both were preempted by federal law

Finding solutions to these issues requires evaluation to be a key component to any local tobacco control program. Others are able to learn and replicate strategies when local tobacco control programs evaluate their efforts and share their findings through reports, case studies, the media, and state or national conferences. When tobacco control programs shared their results about clean indoor air policies, efforts to raise tobacco taxes, Operation Storefront, youth development/advocacy strategies, and telephone tobacco cessation quitlines, tobacco control programs all over the country benefited.

In addition to improving the effectiveness and efficiency of the tobacco control movement, local program evaluation helps programs to:

- Modify and improve their efforts
- Identify those strategies and interventions that do not work or are too labor intensive for the pay-off
- Justify the need for further funding
- Demonstrate the need for stronger policy interventions
- Galvanize community support for strong policy interventions

Finally, many state and national funding agencies require that local tobacco control projects evaluate their efforts as a condition of receiving that funding. It is a form of program accountability. In California, local tobacco control program evaluation is rapidly becoming the standard of practice in a field that operates much more defensively than other public health programs as a result of unfriendly public records requests, tobacco industry lawsuits, and high visibility public relations campaigns aimed at discrediting tobacco control efforts. Local tobacco control programs don't have the luxury of simply trusting that their hard work results in meaningful outcomes, it must be demonstrated and widely shared.

TCS is providing technical assistance resources to aid local projects in the development of appropriate and cost-effective evaluation designs. The *Local Program Evaluation Planning Guide, 2004*, provides background on evaluation terminology, sample objectives, and evaluation designs for the core indicators. The California Tobacco Control Evaluation Center will provide individual telephone technical assistance, group training and technical assistance opportunities, evaluation resources for preparing case study and evaluation reports, evaluation protocols for common objectives, and serve as a

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central repository of evaluation survey instruments, protocols and survey question items.

Evaluation must be integrated into the program planning process of the 2004-2007 CTCP. The evaluation is to be planned at the time each objective is developed and the intervention is designed.

Evaluation Center

To help you link the indicators and assets detailed in Communities of Excellence Needs Assessment Guide to local program evaluation, CDHS/TCS is creating an Evaluation Center that will provide training, feedback and oversight on the evaluation plan portion of the SOW, thereby replacing the role of the Technical Assistant Consultants (TACs). Please see **Appendix 3** for more information.

Local Evaluation Planning Guide

To facilitate the development of appropriate and sound evaluation designs, the CX Evaluation Planning Guide is being updated. The CX Evaluation Planning Guide includes suggested sample objectives, evaluation activity plans, evaluation designs, data collection procedures and survey instruments for the core CX indicators and for select non-core CX indicators that address new and innovative areas (e.g., harm reduction).

Please note: LLAs will not be penalized for failure to achieve their objectives; evaluation results will not affect current or future funding. However, LLA funds may be withheld if deliverables within the SOW are not completed, including elements of the evaluation plan.

Evaluation Plan Minimum Requirements

- **At least ten percent of the budget is allocated to evaluation.**
- A letter submitted by the above mentioned program evaluator describing his/her involvement in the development of the evaluation plan.
- Three “Primary Objectives” are identified for in-depth evaluation purposes. These three objectives reflect where the bulk of evaluation resources will be directed. These objectives feature a more complex study design than a case study, (i.e., a quasi-

experimental or experimental design), with the purpose of isolating the factors associated with achieving the desired outcome.

- **Two of the three primary objectives are to be developed from the 13 core Communities of Excellence indicators** (unless otherwise instructed by TCS) (see page 9 of Communities of Excellence Needs Assessment Guide for core indicators). The third objective may reflect a new innovative area from any of the CX indicators or assets (see pages 13-30 of the CX Guide).
- All other objectives in the SOW include appropriate evaluation plans.
- Each activity plan includes a description of the evaluation activity steps, timelines, who is responsible, tracking measures, copyright information and percent deliverable. A reasonable total percent deliverable for an objective's evaluation is approximately 1 percent to 5 percent.

Instructions for Completing the Evaluation Design and Evaluation Activities

This portion of the online SOW describes the Evaluation Design Methods, Evaluation Activities Plan, and Timelines. It must be completed for each objective. Data collected will be dependent upon the type of outcomes expected, therefore, the evaluation design will be policy related or non-policy related.

The evaluation activity plan is to include outcome data collection activities and process data collection activities. Outcome data collection activities will include activities such as looking at the number of tobacco signs, number of tobacco ads, number of smoke-free homes, bar compliance rates, etc. Process data collection activities would include such activities as focus groups, key informant interviews, public opinion polls, city or county council records, education/participant surveys, media activity records, evaluation-related trainings, or other process data activities.

Provide for each objective a description of the evaluation activity steps, timelines, who is responsible, tracking measures, copyright information and percent deliverable.

Please refer to the OTIS User Guide and the Local Program Evaluation Planning Guide, which provides the specific

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instructions for completing the Evaluation Activities Plan and Evaluation Design sections of the SOW.

See Scope of Work Flow Chart, Figure 1, on the next page.

Figure 1: Scope of Flow Chart

Review CX Assessment Forms to Identify Potential Objectives for the 2004-2007 Scope of Work

Each Scope of Work must reflect a minimum of one objective for each of the three priority areas:

<u>Priority Area</u>	<u>Minimum Number of Required Objectives</u>
Counter Pro-Tobacco Influences	1
Reduce Exposure to Secondhand Smoke	1
Reduce the Availability of Tobacco	1
Promote Tobacco Cessation Services	optional

Two of the three objectives must be developed from a core CX Indicator; the third can reflect a new area from any of the CX Indicators:

<u>Priority Area</u>	<u>Number of Core Indicators</u>
Counter Pro-Tobacco Influences	4
Reduce Exposure to Secondhand Smoke	4
Reduce the Availability of Tobacco	3
Promote Tobacco Cessation Services	2

Identify 3 Primary Objectives

A “primary objective” is a high priority objective and one that will receive an in-depth evaluation such as experimental, quasi-experimental or a high level case study. Interim evaluation reports submitted with the biannual progress reports and a final evaluation report will also be required for each of the primary objectives.

Activity Plan

- Develop activities for each objective
- Designate timelines
- Designate who is responsible for completing the activities

Evaluation

- Develop an evaluation plan for each objective in your Scope of Work to ascertain the extent to which the objective was achieved
- Develop an in-depth evaluation for the three primary objectives

c. **Materials Development**

Materials Development Minimum Requirements:

- The information is complete
- Materials are developed to support the SOW and are integrated into the proposed program
- Prior to development, it is evident that TECC will be contacted to confirm non-duplication and for assistance on materials development
- It is evident that the LLA intends to use appropriate strategies to field/pilot test materials in their development phase

Instructions:

Complete the Materials Development Form, which includes the following:

- objective
- intervention category
- activity
- activity number
- working title of material
- brief description of the content
- target audience to be reached by the materials
- material format
- language
- projected completion date
- primary content
- material purpose

Please refer to the OTIS User Guide, which provides the actual instructions for completing the SOW. The Materials Development is part of the SOW form and includes educational, media, promotional and incentive materials.

The Materials Development and TECC Intake form will also need to be completed for each material developed. See **Appendix 4**.

d. **Narrative Summary**

Narrative Summary Minimum Requirements:

- The CX Needs Assessment findings are described for each objective, including the identification of priority population needs
- Briefly describes the interventions and evaluation activities
- For each objective, a rationale is provided that describes the underlying Theory of Change. The Theory of Change is the

basic assumption(s) about why the proposed interventions should work. A Theory of Change should be:

- Logical
- Consistent with everyday observations
- Similar to those used in previous successful program examples you have read or heard about
- Supported by past research in the same area or related ideas
- Reasonable, realistic and appropriate evaluation plans are evident for each objective

Instructions:

Refer to the OTIS User Guide, which provides specific instructions for completing the Narrative Summary.

9. Budget Justification Instructions

Budget Justification Minimum Requirements:

- Propose a reasonable budget for the quality and quantity of activities in the SOW.
- Propose reasonable personnel and consultant costs, given the qualifications of the individuals and needs of the project.
- Provide funding for a minimum of 75 percent project director or project coordinator. (A project director of less than 100 percent must be justified in the budget justification and is subject to the consideration and approval by CDHS/TCS on a case-by-case basis.)
- Provide the level of detail requested in the budget justification instructions.
- Allocate, at a minimum, ten percent of the overall budget toward evaluation.
- Allocate, at a minimum, ten percent of the lead person's time toward overseeing evaluation activities, including the coordination of an evaluation consultant or subcontractor that may be hired.

General Instructions

The budget justification consists of the following categorical line items:

- **Personnel Costs** (*includes all positions, salaries, and time base*)
 - *NOTE: Management and fiscal positions that are less than 10 percent must be included in the Indirect Costs category.*
 - Allocate a minimum of ten percent of the lead person's time towards overseeing evaluation activities.

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- **Fringe Benefits**
 - May include items such as medical, dental, long-term disability, life insurance, payroll taxes, etc.
 - *NOTE: Fringe benefits does not include employee leave such as vacation, sick leave, jury duty, military leave, etc.*
- **Operating Expenses**
 - **TCS Communications Network (PARTNERS)**

This is a CDHS/TCS required line item. You must budget for this line item or tell CDHS/TCS how you intend to access the Internet in order to participate in PARTNERS.
 - **Space Rent/Lease.** Include the standard costs for your program.
 - **Other.** Include any other agency-defined subcategories.
- **Equipment Purchases**
 - All equipment purchases regardless of dollar amount or type, must be budgeted in the Equipment Expenses category.
 - Cellular phones and monthly access fees are not authorized.
 - Pagers and monthly fees may be authorized on an individual basis, and will depend upon the need of the project, and will be subject to the approval of CDHS/TCS.
- **Travel/Per Diem and Training**
 - **Project Travel/Training:** Budget for project travel/training which supports implementation of the SOW activities.
 - **TCS Travel/Training:** It is recommended that you budget for 1-2 staff (or coalition members as appropriate) to attend 2-5 TCS trainings per fiscal year (FY) at \$750 per person. Over the next three years, trainings may include the following topics:
 - Harm Reduction
 - Information and Education visits to the State Capitol
 - LLA Guidelines Technical Assistance Meeting in FY 06/07 (Spring 2007)
 - SHS Live, Work & Play in FY 04/05 (Summer 2004)
 - Communities of Excellence (CX) Priority Populations Training in FY 04/05 (January 2005).
 - **Required TCS Travel/Training**
 - **Project Directors Meeting (PDM):** Budget \$1,200 per person for 1-2 staff to attend the PDM in FYs 04/05 (Spring 2005) and 05/06 (Spring 2006).
 - **CX Training:** Budget \$750 per person for 1-2 staff to attend the CX training in FY 06/07 (Fall 2006).

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- **LLA Guidelines Information Meeting:** Budget \$750 per person for 1-2 staff and the project evaluator to attend the Information Meeting in FY 06/07 (Winter 2007).
- **Out-of-State Travel (*Optional*):** Identify any possible out-of-state trips. Include the amount budgeted, number of staff and purpose. However, final approval of any out-of-state travel will be contingent upon participating in the conference as a presenter, panel member, speaker, etc.

National Conference on Tobacco or Health (*optional*)
Budget \$1,400 per person (\$1,100 travel/per diem and \$300 registration) for 1-2 program staff to attend the National Conference in FY 2004-2005. The National Conference on Tobacco or Health will be held in Chicago, Illinois on May 4-6, 2005.

World Conference on Tobacco or Health (*optional*)
Budget \$1,400 per person (\$1,100 travel/per diem and \$300 registration) for 1-2 staff to attend the World Conference on Tobacco or Health. Budget in Year 3 only, FY 2006-2007. The preliminary site for the conference is Washington, D.C.
- **Subcontracts/Consultants** (*includes mini-grants, consultants, subcontract services*)
- **Other Costs** (*Review the Policy Manual for use of Educational Materials, Promotional Items, Incentives, Media, and Sponsorships. All items must be referenced in the SOW.*)
 - **Educational Materials**
 - **Promotional Items**
 - **Incentives**
 - **Media**
 - **Sponsorships**
 - **Any other agency-defined subcategories**
- **Indirect Costs** (*overhead costs which cannot exceed 15 percent of Personnel + Fringe*)
- CDHS/TCS will approve LLA Project Director's Association dues for each fiscal year. If dues were pre-paid in the last agreement for any of the fiscal years, budget only for the unpaid years. Place this expense in the line item appropriate for your county accounting system.

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- A “special projects” line item may be established to fund activities or projects that have not been fully developed. Place this expense in the line item appropriate for your county accounting system.

The budget information contained in the above categories are very specific to these categories and, per department requirements, cannot be budgeted in any of the other categories. You may add subcategories to Operating Expenses, Subcontracts/Consultants, and/or Other Costs using your agency-defined subcategories. You will need to provide a justification for each line item you add to either of these categories that defines, describes and justifies the additional subcategories.

Specific Instructions

Refer to the OTIS User Guide for specific instructions to complete the budget justification.

10. Evaluation Synopsis

Minimum Requirements

- Allocate, at a minimum, ten percent of the overall budget towards the evaluation component of your SOW.
- Allocate, at a minimum, ten percent of the lead person’s time toward overseeing evaluation activities, including the coordination of an evaluation consultant or subcontractor that may be hired.

General Instructions

- Budget at least ten percent of a lead staff person’s time to oversee and coordinate the evaluation activities; and,
- Budget the expenses for an evaluation consultant or subcontractor (if applicable); and,
- Budget any other expenses (such as operating, fringe benefits, other costs, etc.) related to the evaluation activities.

Specific Instructions

Refer to the OTIS User Guide for specific instructions to complete the evaluation synopsis.

11. Additional Documents

a. Non-Proposition 99 Incoming Tobacco Control Funds

This form provides a brief description of additional funds the LLA has available for non Prop-99 tobacco control activities (e.g., American Legacy Foundation, Prop 10, MSA, etc.) Follow the

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specific instructions in the OTIS User Guide for completing this information.

Note: Do not co-mingle any other tobacco monies in the trust account. The separate interest-bearing account is only for Proposition 99 allocations.

b. Administrative/Collaborative Activities (Optional)

LLAs are not required to describe routine administrative and collaborative activities in the SOW since these activities are largely captured under the Coalition Activities Form and the Collaboration Tracking Form of the progress report. However, LLAs who want to document these activities may do so with this form. Information provided in the section would refer to activities such as participation in a CDHS/TCS workgroup, joint school projects or collaboration with voluntary agencies, procurement processes, subcontract monitoring, supervising staff, analyzing legislation, responding to constituency correspondence, etc.

c. Project Abstract
(To be completed AFTER your CTCP has been approved)

The information provided in this document will be used to create the Project Directory that is accessed by the public and other CDHS/TCS-funded projects. This document is to be completed after CDHS/TCS has notified you that your CTCP has been approved. Completing this document prior to receiving approval may require additional changes to the document should CDHS/TCS change/delete any proposed activities. Refer to the OTIS User Guide for specific instructions.

VII. ALLOCATION AGREEMENT TERMS

The terms of your allocation agreement with the California Department of Health Services/Tobacco Control Section (CDHS/TCS) are included as **Appendix 5**. These terms provide information on the allocation agreement requirements for the term of the agreement.

VIII. APPENDICES

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CDHS/TCS FUNDED PROGRAMS

Following is a description of key projects funded by CDHS/TCS, as of December 2003:

- **Local Health Departments:** Each of the 58 county and three city health departments are designated as LLAs. As the lead tobacco control agency at the community level, the LLA is responsible for coordinating information, referral, outreach and education activities within its respective health jurisdiction. Each LLA fosters and involves a community coalition to engage grassroots community mobilization activities that promote social norm changes and educate the public about health issues related to tobacco use and tobacco industry strategies that promote tobacco use. In general, the LLA is the lead on local community policy development, facilitation of enforcement of tobacco control laws and local provision of tobacco cessation services.
- **Competitive Grant Program:** The competitive grant program funds a variety of community, statewide and pilot projects. The agencies funded through this program are non-profit agencies and may include community-based organizations, voluntary health organizations, health clinics, ethnic organizations, alcohol and drug centers, labor organizations, youth organizations, and law enforcement agencies. Approximately 66 projects are currently funded.
- **Community-Based Projects:** These account for approximately 82 percent of the projects funded through the competitive grant program. The majority of projects focus on reaching special populations such as ethnic groups, youth, college students, labor, etc. They conduct advocacy and education campaigns that focus on changing community norms around tobacco use.
- **Ethnic Networks:** Four statewide projects are currently funded to operate the following Ethnic-Specific Tobacco Education Networks: African American, American Indian, Asian and Pacific Islander and Hispanic/Latino. The Ethnic Networks function as administrative agencies to coordinate, collaborate, build capacity and mobilize ethnic communities throughout California. Each Ethnic Network maintains a statewide advisory committee and general membership, which is comprised of CDHS/TCS-funded agencies and other organizations and individuals involved in tobacco control efforts for the identified populations. The Ethnic Networks conduct culturally specific education and advocacy campaigns, administer a mini-grant program and provide technical support and consultation to CDHS/TCS, LLAs, and competitive grantees on how to effectively reach and work with California's multi-cultural population.
- **Statewide Projects:** Numerous grants are funded that are specifically designed to provide technical assistance and/or services on a statewide basis. These grants include:
 - **BREATH (The California Smoke-free Bars, Workplaces and Communities Program)** provides technical assistance, educational materials, consultations and trainings to assist in the creation and implementation of policies to protect

workers, the public and tenants from the toxic effects of exposure to secondhand smoke. Their website is <http://www.breath-ala.org/>.

- **BUILT (Building Trades Unions Ignite Less Tobacco)** provides education and outreach to organized labor through an apprenticeship curricula, insurance carriers promoting the California Smokers' Helpline, providing nicotine replacement therapy as a covered benefit, pension fund divestment, and an activist network for union business agents. Their website is <http://sbctc.org/built/>.
- **California Smokers' Helpline:** The Helpline provides intensive tobacco cessation counseling in English, Spanish, Korean, Mandarin, Cantonese, Vietnamese and for the hearing impaired. Tailored counseling services are provided for adults, teens, pregnant women and chew tobacco users. The Helpline also provides self-help materials and a referral list to other tobacco cessation programs. The services provided by the Helpline are free-of-charge. Their website is <http://www.californiasmokershelpline.org/>.
- **California Youth Advocacy Network (CYAN)** provides technical assistance to support advocacy in tobacco use prevention to youth and young adults, including college and vocational students, and non-students. Their website is <http://www.cyanonline.org>
- **The Center for Tobacco Policy and Organizing** provides long and short-term technical assistance on policy and enforcement campaigns, research and updates on tobacco control bills and legislation, as well as community organizing trainings. Their website is <http://www.californialung.org/thecenter>.
- **Council for Responsible Public Investment (CRPI)** mobilizes college students to divest of their schools' pension funds' tobacco stocks by challenging the tobacco industry's global harm to public health, workers and the environment. It also encourages state and local governments to discontinue investing public monies in tobacco companies by providing technical assistance to policymakers, communities, unions, foundations and organizations. Their website is <http://www.BigTobaccoSucks.org>.
- **Technical Assistance Legal Center (TALC)** provides technical assistance on legal issues in drafting, passing and enforcing tobacco control policies including tobacco retailer licensing, secondhand smoke, self-service display bans, enforcement of tobacco control laws, zoning restriction on tobacco retailers, event sponsorship by the tobacco industry, MSA, and other issues upon request. Their website is <http://www.phi.org/talc>.
- **Tobacco Education Clearinghouse of California (TECC)** provides a broad array of professional resources and support services including a complete sales catalog of low/no cost tobacco education materials, professional research assistance, a library of over 20,000 tobacco-related materials, and material development assistance. Their website can be reached through PARTNERS or at <http://www.tecc.org>.

Tobacco Control Section
Local Lead Agency Allocation Table
Estimate for FY's 04/05, 05/06, 06/07

LOCAL LEAD AGENCY	AGREEMENT NUMBER	\$15,783,000 FY 04/05 ALLOCATION Estimate	\$15,000,000 FY 05/06 ALLOCATION Estimate	\$14,500,000 FY 06/07 ALLOCATION Estimate	TOTAL CONTRACT
Alameda	TCS-04-01	\$329,556	\$289,682	\$262,872	\$882,110
Berkeley	TCS-04-01A	\$150,000	\$150,000	\$150,000	\$450,000
Alpine	TCS-04-02	\$150,000	\$150,000	\$150,000	\$450,000
Amador	TCS-04-03	\$150,000	\$150,000	\$150,000	\$450,000
Butte	TCS-04-04	\$150,000	\$150,000	\$150,000	\$450,000
Calaveras	TCS-04-05	\$150,000	\$150,000	\$150,000	\$450,000
Colusa	TCS-04-06	\$150,000	\$150,000	\$150,000	\$450,000
Contra Costa	TCS-04-07	\$182,329	\$167,170	\$150,000	\$499,499
Del Norte	TCS-04-08	\$150,000	\$150,000	\$150,000	\$450,000
El Dorado	TCS-04-09	\$150,000	\$150,000	\$150,000	\$450,000
Fresno	TCS-04-10	\$271,542	\$248,965	\$233,784	\$754,291
Glenn	TCS-04-11	\$150,000	\$150,000	\$150,000	\$450,000
Humboldt	TCS-04-12	\$150,000	\$150,000	\$150,000	\$450,000
Imperial	TCS-04-13	\$150,000	\$150,000	\$150,000	\$450,000
Inyo	TCS-04-14	\$150,000	\$150,000	\$150,000	\$450,000
Kern	TCS-04-15	\$172,734	\$150,000	\$150,000	\$472,734
Kings	TCS-04-16	\$150,000	\$150,000	\$150,000	\$450,000
Lake	TCS-04-17	\$150,000	\$150,000	\$150,000	\$450,000
Lassen	TCS-04-18	\$150,000	\$150,000	\$150,000	\$450,000
Los Angeles	TCS-04-19	\$4,064,423	\$3,714,016	\$3,478,401	\$11,256,840
Pasadena	TCS-04-19B	\$150,000	\$150,000	\$150,000	\$450,000
Long Beach	TCS-04-19A	\$214,958	\$197,086	\$185,068	\$597,112
Madera	TCS-04-20	\$150,000	\$150,000	\$150,000	\$450,000
Marin	TCS-04-21	\$150,000	\$150,000	\$150,000	\$450,000
Mariposa	TCS-04-22	\$150,000	\$150,000	\$150,000	\$450,000
Mendocino	TCS-04-23	\$150,000	\$150,000	\$150,000	\$450,000
Merced	TCS-04-24	\$150,000	\$150,000	\$150,000	\$450,000
Modoc	TCS-04-25	\$150,000	\$150,000	\$150,000	\$450,000
Mono	TCS-04-26	\$150,000	\$150,000	\$150,000	\$450,000
Monterey	TCS-04-27	\$150,000	\$150,000	\$150,000	\$450,000
Napa	TCS-04-28	\$150,000	\$150,000	\$150,000	\$450,000
Nevada	TCS-04-29	\$150,000	\$150,000	\$150,000	\$450,000
Orange	TCS-04-30	\$519,545	\$476,348	\$447,302	\$1,443,195
Placer	TCS-04-31	\$150,000	\$150,000	\$150,000	\$450,000
Plumas	TCS-04-32	\$150,000	\$150,000	\$150,000	\$450,000
Riverside	TCS-04-33	\$321,827	\$295,068	\$277,076	\$893,971
Sacramento	TCS-04-34	\$332,888	\$305,210	\$286,600	\$924,698
San Benito	TCS-04-35	\$150,000	\$150,000	\$150,000	\$450,000
San Bernardino	TCS-04-36	\$383,951	\$352,028	\$330,562	\$1,066,541
San Diego	TCS-04-37	\$606,392	\$555,974	\$522,073	\$1,684,439
San Francisco	TCS-04-38	\$544,986	\$499,673	\$469,205	\$1,513,864
San Joaquin	TCS-04-39	\$176,070	\$150,000	\$150,000	\$476,070
San Luis Obispo	TCS-04-40	\$150,000	\$150,000	\$150,000	\$450,000
San Mateo	TCS-04-41	\$150,000	\$150,000	\$150,000	\$450,000
Santa Barbara	TCS-04-42	\$150,000	\$150,000	\$150,000	\$450,000
Santa Clara	TCS-04-43	\$530,344	\$486,249	\$456,599	\$1,473,192
Santa Cruz	TCS-04-44	\$150,000	\$150,000	\$150,000	\$450,000
Shasta	TCS-04-45	\$150,000	\$150,000	\$150,000	\$450,000
Sierra	TCS-04-46	\$150,000	\$150,000	\$150,000	\$450,000
Siskiyou	TCS-04-47	\$150,000	\$150,000	\$150,000	\$450,000
Solano	TCS-04-48	\$176,823	\$168,051	\$162,454	\$507,328
Sonoma	TCS-04-49	\$204,632	\$194,480	\$188,004	\$587,116
Stanislaus	TCS-04-50	\$150,000	\$150,000	\$150,000	\$450,000
Sutter	TCS-04-51	\$150,000	\$150,000	\$150,000	\$450,000
Tehama	TCS-04-52	\$150,000	\$150,000	\$150,000	\$450,000
Trinity	TCS-04-53	\$150,000	\$150,000	\$150,000	\$450,000
Tulare	TCS-04-54	\$150,000	\$150,000	\$150,000	\$450,000
Tuolumne	TCS-04-55	\$150,000	\$150,000	\$150,000	\$450,000
Ventura	TCS-04-56	\$150,000	\$150,000	\$150,000	\$450,000
Yolo	TCS-04-57	\$150,000	\$150,000	\$150,000	\$450,000
Yuba	TCS-04-58	\$150,000	\$150,000	\$150,000	\$450,000
TOTALS		\$15,783,000	\$15,000,000	\$14,500,000	\$45,283,000

Evaluation Center

To help you link the indicators and assets detailed in Communities of Excellence Needs Assessment Guide to local program evaluation, CDHS/TCS is creating an Evaluation Center that will provide training, feedback and oversight on the evaluation plan portion of the SOW, thereby replacing the role of the Technical Assistant Consultants (TACs). The Evaluation Center staff will give proactive assistance by offering standardized data collection instruments, discussing with Local Program Evaluators appropriate evaluation measures for their plan's objectives/interventions, and be available for technical assistance, thus increasing the ability to coordinate LLA evaluation plans to provide more uniformity.

The Evaluation Center will participate in the review of the CTCP for all LLAs by:

- Assisting Project Directors and LLA Program Evaluators in the selection of the three "primary objectives"
- Preparing a brief written assessment describing the strengths and weaknesses of the evaluation plan for the three "primary objectives"
- Contacting the LLA Project Directors and Program Evaluators to discuss any necessary changes to the evaluation plan for the "primary objectives"
- Finalizing the written assessments based upon communication with the LLA Project Directors and Program Evaluators
- Sending written assessments to Data Analysis and Evaluation Unit staff for review
- Aiding LLA Program Evaluators in finalizing their evaluation plan prior to contract negotiations
- Providing CDHS/TCS on-going support over a three-year period to assist LLA Program Evaluators
- Providing technical assistance to LLAs in terms of the evaluation portion of the progress report for the three primary objectives
- Potentially providing instruction during Local Program Evaluator Exchange Training Sessions.



OTIS California Department of Health Services, Tobacco Control Section
Online Tobacco Information System

Local Lead Agency FY 04-07: Test County Department of Public Health **LLA**

[Main](#) | [Plan](#) | [Progress](#) | [Cost](#) | [Directory](#) | [Materials](#) | [Communications](#) | [Reports](#)

Materials Development and TECC Intake

Working Title of Material:

Brief Description of the Content Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut wisi enim ad minim veniam, quis nostrud exerci tation ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo consequat. Duis autem vel eum iriure dolor in hendrerit in vulputate velit esse molestie consequat, vel illum dolore eu feugiat nulla facilisis at vero eros et accumsan et iusto odio dignissim qui blandit praesent luptatum zzril delenit augue duis dolore te feugait nulla facilisi. Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut wisi enim ad minim veniam, quis nostrud exerci tation ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo consequat

Target Audience to be Reached by the Material: **Audience Groups**

- 0-12 years
- 13-17 years
- 18-24 years -specifically
- 21 years and older
- Adults 18 years and older**
- Advocates

General Population Groups

- African
- African American/Black
- American Indian/Native American
- Asian
- Eastern European
- Hispanic/Latino

Specific Ethnic Population Groups

- Afghan
- Arabic
- Armenian
- Asian Indian
- Bosnian
- Cambodian

Material Format: Fact Sheet

Language: Afrikaans
 American Sign Language
 Amharic
 Arabic
 Armenian
 Cambodian

Projected Completion Date: 07/05-12/05

Primary Content: Secondhand Smoke

Material Purpose: ☒ Raise awareness of issue
☐ Influence attitudes about issue
☐ Influence behavior change
☐ Other:

Progress

Contact Name:

Contact Phone Number:

Contact Email:

Date Completed: [\[Choose Date\]](#)

Date Sent to TECC: [\[Choose Date\]](#)

Design Steps		
Step	Completed	Date Documentation Sent
1 Outlined material goals and objectives	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
2 Completed search for similar existing material	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> N/A <input type="text"/> [Choose Date]
3 Sought consultation on design, (i.e., graphic artist)	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> N/A <input type="text"/> [Choose Date]
4 Pilot tested concepts with target audience	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
5 Conducted readability/literacy test	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
6 Tested material for cultural appropriateness	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
7 Completed an external back translation of non-English material (Submit English translation)	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
8 Field tested final material with target audience	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
9 Conducted evaluation of material with target audience for effectiveness	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
10 Submitted two hardcopies of the original material developed to TECC	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
11 Sent a copy of the field test results and/or focus group analyses to TECC	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
12 Obtained copyright releases from graphic artist/contractors	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> N/A <input type="text"/> [Choose Date]
13 Obtained model releases for any people in photos	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> N/A <input type="text"/> [Choose Date]
14 Obtained any image releases/contracts used for any purchased stock photography	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> N/A <input type="text"/> [Choose Date]
15 Sent a completed Material Intake Form Report to TECC	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]

16 Sent all digital source files for materials created (e.g., Photoshop, Work, Illustrator, PageMaker, Quark, etc.) and video/audio masters to TCS with the final progress report	<input type="radio"/> Yes <input type="radio"/> No	<input type="text"/> [Choose Date]
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Copyright and Distribution Logistics

Is the material part of a comprehensive campaign or program? ☐ Yes ☐ No

Are there any copyright or talent limitations associated with this material? ☐ Yes ☐ No

Format of production quality Master:

Material Development Cost: \$

Material Duplication Cost: \$

Number of copies duplicated:

Number of copies distributed:

Abstract of Final Produced Material

Print and submit the completed Materials Development and TECC Intake Report to TECC along with the two original copies of the completed materials and materials development documentation to TECC

Save Information

Cancel

LOCAL LEAD AGENCY ALLOCATION AGREEMENT TERMS

Exhibit A Scope of Work

1. Services
2. Communications/Project Director
3. Progress Reports, Evaluation Instruments, Other Requirements
4. Project Monitoring

Exhibit B Budget Detail and Payment Provisions

1. Term of the Agreement
2. Invoicing and Payment
3. Funding or Funding Reduction in Subsequent Fiscal Years
4. Prompt Payment Clause
5. Amount Payable
6. Overtime
7. Payment for Performance of Deliverables
8. Trust Account and Expenditure Provisions
9. Recovery of Overpayments
10. Generated Revenues
11. Interest Earned

Exhibit C Additional Provisions

1. Additional Incorporated Exhibits
2. Agreement Alterations
3. Termination
4. Avoidance of a Conflict of Interest by the LLA
5. Acknowledgement of State Participation and Helpline Reference
6. Subcontractor Requirements
7. Lobbying and Political Activities
8. Confidentiality of Information
9. Elected Officials
10. Child Support Compliance Act Acknowledgement

Exhibit D(S) Special Terms and Conditions (*only the provisions listed below apply*)

5. Income Restrictions
6. Audit and Record Retention
7. Site Inspection
8. Intellectual Property Rights
10. Confidentiality of Information
11. Documents, Publications and Written Reports
12. Dispute Resolution Process
14. Novation Requirements
16. Performance Evaluation
17. Officials Not to Benefit
18. Year 2000 Compliance
19. Prohibited Use of State Funds for Software

Exhibit A Scope of Work

1. Services

- A. The Local Lead Agency (LLA) shall provide tobacco education services and deliverables in accordance with its Comprehensive Tobacco Control Plan (CTCP), including any revisions submitted to and approved by the California Department of Health Services (CDHS), Tobacco Control Section (TCS) pursuant to Health and Safety Code Section 104350. The CTCP shall be submitted in accordance to the form and format determined by CDHS/TCS. The LLA agrees to expend funds received through this agreement in accordance with the approved budget and budget justification contained in the approved CTCP. The LLA also agrees that the allocation of funds pursuant to this agreement is contingent upon CDHS/TCS' approval of the CTCP and any revisions thereto. No funds shall be allocated under Provision 5.A. of Exhibit B, in any given fiscal year unless a revised CTCP has been approved by CDHS/TCS for that fiscal year.
- B. Revisions to the CTCP must be approved by CDHS/TCS. CDHS/TCS shall notify the LLA in writing of the effective date of such approvals.
- C. CDHS/TCS shall work with the LLA to ensure that the CTCP is being performed pursuant to this agreement. CDHS/TCS reserves the right to approve and adjust specific tasks to be performed within the CTCP to be performed by the LLA. These changes shall be accomplished by written notification to the LLA.

2. Communications/Project Director

A. Communications

The LLA shall send prospective payment invoices, progress reports, cost reports, and other communication to:

California Department of Health Services
CDIC/Tobacco Control Section
Mail Station 7206
P. O. Box 997413
Sacramento, CA 95899-7413

B. Project Director

The LLA shall designate a Project Director, subject to approval by CDHS/TCS. The Project Director is responsible for assuring that the terms and conditions of the agreement are met. The LLA shall notify

Exhibit A Scope of Work

CDHS/TCS in a form and format prescribed by CDHS/TCS within five (5) days of a change in the Project Director.

3. Progress Reports, Evaluation Instruments, Other Requirements

- A. The LLA agrees to submit semi-annual progress and cost reports. The cost reports will specify actual expenditures for tobacco education services provided by the LLA. The progress and cost reports shall be submitted in a form, format, and schedule prescribed by CDHS/TCS. The LLA agrees that subsequent quarterly prospective payments shall be contingent upon CDHS/TCS' receipt and approval of progress and cost reports. The LLA agrees that if CDHS/TCS determines that all or a portion of the allocated funds have been expended inappropriately during the period covered by the progress or cost report, in accordance with the services identified in the LLA's approved CTCP, CDHS/TCS may offset the value of the inappropriate expenditures against current and/or future quarterly prospective payments. The LLA agrees that such deductions to sums due to the LLA are offsets and no further amount shall be due to the LLA.
- B. The LLA shall complete CDHS/TCS standardized evaluation instruments, needs assessment instruments, and other evaluation requirements in a form and format prescribed by CDHS/TCS.
- C. The LLA shall comply with all CDHS/TCS-issued program and policy letters which may be issued during the term of the agreement provided that CDHS/TCS shall only make changes or impose additional requirements which will not result in additional cost to the LLA.
- D. The LLA shall coordinate and collaborate with CDHS/TCS or its designee to maximize the tobacco education media/communication efforts, as directed by CDHS/TCS.

4. Project Monitoring

- A. CDHS/TCS and all authorized State control agencies shall have access to all internal and external reports, records, and documents used by the LLA in the operation and administration of this agreement.
- B. The LLA shall cooperate, and require its subcontractors to cooperate, with CDHS/TCS or its designee by participating in meetings and/or site visits as CDHS/TCS may deem necessary to monitor LLA compliance with the agreement.

Exhibit B
Budget Detail and Payment Provisions

1. Term of the Agreement

The term of this agreement shall be from July 1, 2004 to June 30, 2007.

2. Invoicing and Payment

A. CDHS/TCS shall make quarterly prospective payments to the LLA to provide services and deliverables pursuant to Exhibit A, paragraph 1.A.

B. CDHS/TCS will provide the quarterly prospective payment invoice to the LLA. The LLA is to sign the invoice and submit to:

California Department of Health Services
CDIC/Tobacco Control Section
MS 7206
P. O. Box 942732
Sacramento, CA 94234-7320

C. Invoices submitted by the LLA and paid by CDHS/TCS, shall not be deemed evidence of allowable agreement costs. Costs and/or expenses deemed unallowable are subject to provision 9 entitled, "Recovery of Overpayments" that appears in this exhibit.

D. Total CDHS/TCS reimbursement via cost reports for each line item identified in the budget is the maximum amount reimbursable for that line item during the agreement term. CDHS/TCS, at its option, may return disputed cost reports to the LLA for correction and resubmission or CDHS/TCS may disallow expenses claimed which are not in accordance with the Scope of Work, the budget or which cannot be verified as project expenses by the LLA.

3. Funding or Funding Reduction in Subsequent Fiscal Years

A. Funds are presently not available for performance under this agreement beyond June 30, 2005. CDHS/TCS' obligation for performance of this agreement beyond that date is contingent upon the availability of appropriated funds by the Legislature from which payment for this agreement can be made. No legal liability on the part of CDHS/TCS for any payment may arise for performance under this agreement beyond June 30, 2005 until funds are made available to CDHS/TCS for performance and until the LLA receives notice of availability, to be confirmed in writing by CDHS/TCS.

Exhibit B
Budget Detail and Payment Provisions

- B. If funding for any fiscal year is reduced or deleted by the Legislature or the Department of Finance for purposes of this program, CDHS/TCS shall have the option to either:
- 1) Terminate this agreement pursuant to provision 3 of Exhibit B, the 30-day termination clause.
 - 2) Offer a revision to the LLA to reflect the reduced funding for this agreement.
- C. If statutory authority for programs funded under Health and Safety Code Section 104350 expires, or this agreement is terminated, the unexpended agreement funds and accumulated interest pursuant to provision 11 of this exhibit shall be identified in a manner prescribed by CDHS/TCS and returned to CDHS/TCS within ninety (90) days of the expiration date to the address specified in provision 2.B of this exhibit. The words "Unexpended Tobacco Control Program Funds" and the agreement number shall be written on the face of the check or warrant that the LLA has issued to return unexpended funds.

4. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

5. Amount Payable

- A. The maximum amount to be allocated under this agreement is reflected in the CDHS/TCS LLA Allocation Table, Appendix 2, of the Comprehensive Tobacco Control Plan Guidelines.
- B. Funds allocated from each fiscal year may be expended or encumbered without regard to fiscal year pursuant to each year's budget authority.
- C. Any requirement of performance by CDHS/TCS and the LLA for the period subsequent to June 30, 2005 will be dependent upon the availability of future appropriations.

6. Overtime

Overtime is not reimbursable under the terms of this agreement unless the LLA has provided for overtime expenses in the approved budget of the CTCP.

Exhibit B
Budget Detail and Payment Provisions

7. Payment for Performance of Deliverables

The LLA understands and agrees that all deliverables as specified in this agreement must be completely performed in order to receive the maximum amount payable identified in Appendix 2 of the CTCP Guidelines. The LLA agrees that if CDHS/TCS determines that any deliverable is not performed, only partially performed, or not completely performed, CDHS/TCS may reduce the maximum amount payable under this agreement as follows:

A. Where a deliverable is not performed:

CDHS/TCS shall calculate the pro rata share of the non-performed deliverable by utilizing the relative values specified in the Scope of Work of the CTCP for each deliverable and reduce the maximum amount payable by deducting the relative value of the deliverable from any sum due the LLA to the degree that the sum due the LLA meets or exceeds the reduction. If the reduction exceeds the sum due the LLA, the LLA shall pay such amount back to CDHS/TCS upon its demand. The LLA agrees that such deductions to sums due to the LLA are offsets and no further amount shall be due to the LLA.

B. Where a deliverable is only partially performed:

CDHS/TCS shall ascertain what percentage of the deliverable was only partially performed, calculate the pro rata share of the partially performed portion by utilizing the relative values specified in the Scope of Work of the CTCP for each deliverable and reduce the maximum amount payable by deducting the relative value of the partially performed deliverable from any sum due the LLA to the degree that the sum due the LLA meets or exceeds the reduction. If the reduction exceeds the sum due the LLA, the LLA shall pay such amount back to CDHS/TCS upon demand. The LLA agrees that such deductions to sums due to the LLA are offsets and no further amount shall be due to the LLA.

C. Where a deliverable is not completely performed:

CDHS/TCS shall ascertain what percentage of the deliverable was not performed at a level of completeness, calculate the pro rata share of that portion by utilizing the relative values specified in the Scope of Work of the CTCP for each deliverable and reduce the maximum amount payable by deducting the relative value of that portion from any sum due the LLA to the degree that the sum due the LLA meets or exceeds the reduction. If the reduction exceeds the sum due the LLA, the LLA shall pay such amount back to CDHS/TCS upon demand. The LLA agrees that such

Exhibit B
Budget Detail and Payment Provisions

deductions to sums due to the LLA are offsets and no further amount shall be due to the LLA.

8. Trust Account and Expenditure Provisions

- A. The annual allocation to the LLA and revenues generated from the Tobacco Control Program funds shall be deposited into an interest-bearing, insured trust account.
- B. The annual allocation, interest earned on the allocation funds, and any revenues generated from the Tobacco Control Program funds shall be retained in the LLA's Tobacco Control Program trust account and shall be spent only to accomplish the goals and objectives outlined and identified in the approved CTCP. The LLA shall not divert these funds to cover costs or expenses not specifically included in the CTCP.
- C. The LLA shall not divert, freeze, restrict, or prevent the use of these funds, in whole or in part, for purposes other than conducting the activities described in the approved CTCP.

9. Recovery of Overpayments

- A. LLA agrees that cost reports based upon a contractual agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by CDHS/TCS by one of the following options:
 - 1) LLA's remittance to CDHS/TCS of the full amount of the audit exception within 30 days following CDHS/TCS' request for repayment;
 - 2) A repayment schedule which is agreeable to both CDHS/TCS and the LLA.
- B. CDHS/TCS reserves the right to select which option will be employed and the LLA will be notified by CDHS/TCS in writing of the claim procedure to be utilized.
- C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding is mailed to the LLA, beginning 30 days after LLA's receipt of CDHS/TCS' demand for payment.
- D. If the LLA has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If the LLA loses the final

Exhibit B
Budget Detail and Payment Provisions

administrative appeal, LLA shall repay, to DHS, the over-claimed or disallowed expenses, plus accrued interest. Interest accrues from the LLA's first receipt of CDHS/TCS' notice requesting reimbursement of questioned audit costs or disallowed expenses.

10. Generated Revenues

- A. The LLA shall obtain CDHS/TCS' prior approval to generate revenue and place any revenue generated by activities conducted under this agreement, accruing to or received by the LLA, into the LLA's trust account. Revenue generated by the LLA as a result of this agreement shall be used only to meet the goals and objectives identified in the LLA's approved CTCP, to defray costs incurred by the program, to measurably expand the program, or to improve the quality of services above the level of services already funded under this agreement.
- B. The LLA shall maintain adequate documentation of the receipt and use of such revenues, and shall provide this documentation to CDHS/TCS in the required biannual Cost Reports. The LLA agrees to return to CDHS/TCS any unexpended funds, including interest earned, remaining in the generated revenue account, if funding authority for this program expires, or the agreement is terminated, to the address specified in provision 2.B above, within ninety (90) days from the expiration date.
- C. The words "Unexpended Tobacco Control Program Generated Revenue" and the agreement number shall be written on the face of the check or warrant that the LLA has issued to return unexpended generated revenue.

11. Interest Earned

- A. Interest accruing from prospective payments shall be utilized by the LLA for activities approved by CDHS/TCS and shall be used only to meet the goals and objectives identified in the LLA's approved CTCP, to defray costs incurred by the program, to measurably expand the program, or to improve the quality of services above the level of services already funded under this agreement.
- B. The LLA shall maintain adequate documentation of the receipt and use of such interest, and shall provide this documentation to CDHS/TCS in the biannual Cost Reports. The LLA agrees to return to CDHS/TCS any unexpended interest remaining in the account, if funding authority for this program expires, or the agreement is terminated, to the address specified in provision 2.b above, within ninety (90) days from the expiration date.

Exhibit B
Budget Detail and Payment Provisions

- C. The words “Unexpended Tobacco Control Program Interest” and the agreement number shall be written on the face of the check or warrant that the LLA has issued to return unexpended interest.

**Exhibit C
Additional Provisions**

1. Additional Incorporated Exhibits

- A. The attached Exhibit D(S) entitled "Special Terms and Conditions," consisting of eighteen (18) pages, is incorporated and made a part of this agreement by this reference, except for provisions 1, 2, 3, 4, 9, 13, 15, 20, 21, and 22. The term contractor shall mean Local Lead Agency.
- B. The Local Lead Agency Administrative and Policy Manual, dated January 2004 and any subsequent updates are incorporated herein and made a part of this agreement by this reference. This manual will be updated periodically. CDHS/TCS shall provide the LLA with a copy of the Local Lead Agency Administrative and Policy Manual and periodic updates thereto.

2. Agreement Alterations

No alteration or variation of the terms of this agreement shall be valid unless made in writing by Program Letter, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto. This does not prohibit the parties from agreeing in writing to revisions in the LLA's CTCP, providing such revisions are made in accordance with the requirements prescribed by CDHS/TCS.

3. Termination

A. Termination for Convenience

CDHS/TCS retains the option to terminate this agreement without cause at the CDHS/TCS' convenience, provided that written notice has been delivered to the LLA at least thirty (30) days prior to such termination date. If CDHS/TCS terminates this agreement at its convenience, the LLA will be entitled to compensation upon submission of a cost report and proper proof of claim, in that proportion which its services and products were satisfactorily rendered or provided and its expenses necessarily incurred pursuant to this agreement, up to the date when notice of termination is received by the LLA (hereinafter referred to as "the notice date"). In the event of termination, at the request of CDHS/TCS, the LLA shall furnish copies of all proposals, specifications, designs, procedures, layouts, copy, and other materials related to the services or deliverables provided under this agreement, whether finished or in progress on the termination date. The LLA will not be entitled to reimbursement for any expenses incurred for services and deliverables pursuant to the agreement after the notice date, unless the LLA receives written advance approval from CDHS/TCS. Any services or deliverables for which the LLA is paid which are provided

Exhibit C
Additional Provisions

according to the procedures in this paragraph shall become the property of CDHS/TCS.

B. Immediate Termination for Cause

CDHS/TCS reserves the right to immediately terminate this agreement in whole or in part by providing written notice to the LLA after the occurrence of any of the following:

- 1) If the LLA knowingly furnishes any statement, representation, warranty, or certification in connection with the CTCP, which representation is materially false, deceptive, incorrect, or incomplete;
- 2) If the LLA fails to perform to CDHS/TCS' satisfaction any material requirement of the agreement or defaults in performance of the agreement;
- 3) If CDHS/TCS determines satisfactory performance of the agreement is substantially endangered by the action or inaction by the LLA, or can reasonably anticipate such occurrence of default;
- 4) If the LLA files for bankruptcy or, if in the judgment of the CDHS/TCS, the LLA becomes financially incapable of completing the agreement; or
- 5) CDHS/TCS may, at its discretion, require the LLA to cease performance of certain components of the CTCP and complete performance of other components prior to termination of the entire agreement.

C. Responsibilities Upon Termination

After receipt of notification of termination of this agreement, and except as otherwise specified by CDHS/TCS, the LLA shall stop work under this agreement on the date specified in the written notice of termination. The LLA shall:

- 1) Place no further order or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this agreement that is not terminated;
- 2) Assign to CDHS/TCS, effective on the date of termination, in the manner, and to the extent specified by CDHS/TCS all of the rights, titles, and interests for the LLA under the orders and subcontracts

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terminated. In the case of said assignment, CDHS/TCS has the right, at its discretion, to settle or reimburse the LLA for payment of any or all claims arising out of the termination of such orders and subcontracts and reduce any settlement amount determined by the amount reimbursed to the LLA for payment of such orders or subcontracts;

- 3) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of CDHS/TCS to the extent CDHS/TCS may require. CDHS/TCS' approval or ratification shall be final for the purposes of this section.
- 4) Upon the effective date of termination of the agreement and the payment by CDHS/TCS of all items properly chargeable to the CDHS/TCS hereunder, LLA shall transfer, assign, and make available to CDHS/TCS all materials belonging to CDHS/TCS, all rights and claims to any and all reservations, contracts, and arrangements with owners of media/PR materials, or others, and shall make available to CDHS/TCS all written information regarding CDHS/TCS' media/PR materials, and no extra compensation is to be paid to LLA for its services in connection with any such transfer or assignment;
- 5) Take such action as may be necessary, or as CDHS/TCS may specify, to protect and preserve any property related to this agreement which is in the possession of the LLA and in which CDHS/TCS has or may acquire an interest.

4. Avoidance of a Conflict of Interest by the LLA

- A. The LLA agrees it will take all reasonable efforts to ensure that no conflict of interest exists between its officers, agents and employees.
- B. The LLA, its agents, officers, and employees shall not use their position to influence a government decision in which he or she knows, or has reason to know, he or she has a financial interest, such as for private gain for themselves or others with whom they have family, business, or other ties.
- C. In the event CDHS/TCS determines that a conflict of interest situation exists, any increase in cost(s) associated with the conflict of interest may be disallowed. This provision shall not be construed to prohibit the employment of persons with whom officers, agents, and employees have family, business or other ties so long as the employment of such persons

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does not result in increased costs over those associated with employment of any other qualified applicant on a merit basis.

5. Acknowledgment of State Participation and Helpline Reference

- A. The LLA shall acknowledge the financial support of State funds whenever any findings, data, and materials developed pursuant to this agreement are published or whenever the LLA creates a product (e.g., brochure, a film, videotape, manual, book, pamphlet, training guide, poster, curriculum, etc.) pursuant to this agreement, in the following manner: “This _____ was made possible by funds received from the California Department of Health Services, under Agreement Number _____.”
- B. Informational materials including, but not limited to, brochures, pamphlets, posters, curriculum, training guides, etc., that are developed under this agreement, shall include the California Smokers Helpline toll-free telephone number unless granted an exemption from such requirement by the State.

6. Subcontractor Requirements

- A. As used in this agreement, the term “subcontractor” means any individual or entity that enters into any subcontract with the LLA for performance of any part of this agreement.
- B. The LLA agrees that it is responsible for the performance of all requirements under this agreement even if such performance is carried out by a subcontractor.
- C. The LLA agrees that all subcontract agreements entered into for performance under this agreement shall be in writing and shall include a provision requiring the subcontractor to comply with the terms and conditions of the LLA’s policy and procedure regarding procurement of services performed through a subcontract.
- D. The subcontract documentation is to be retained by the LLA and CDHS/TCS retains the right to request subcontract documentation and any other records or files regarding subcontract and consultant services.
- E. The LLA shall notify CDHS/TCS, in the form and format prescribed by CDHS/TCS, when the LLA enters into a new subcontract or consultant agreement or terminates or replaces a subcontract or consultant agreement.

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Additional Provisions**

7. Lobbying and Political Activities

- A. The LLA shall not use agreement funds for direct or indirect lobbying.
- 1) Direct lobbying, for the purposes of this agreement is defined as any explicit attempt to promote a yes or no vote on a specific piece of legislation, local ordinance or ballot measure through any oral, written or other form of communication with any member or employee of a legislative body, or any government official or employee who participates in the formulation of, or decision-making regarding that specific piece of legislation, local ordinance or ballot measure.
 - 2) Indirect lobbying, for the purposes of this agreement, is defined as any oral or written communication to the general public or any segment of the general population which explicitly attempts to promote a yes or no vote on a specific piece of legislation, local ordinance or ballot measure by encouraging the recipients of the communication to attempt to influence a legislator or an employee of a legislative body or any other government official or employee who participates in the formulation of, or decision-making regarding that legislation, local ordinance or ballot measure.
- B. The LLA shall not use agreement funds to promote a yes or no vote on a ballot measure.
- C. The LLA shall not use agreement funds to promote, directly or indirectly, any candidate for an elective public office.

8. Confidentiality of Information

The provisions of paragraph 10, Confidentiality of Information, in Exhibit D(S), "Special Terms and Conditions," are supplemented by the following paragraphs.

- A. All financial, statistical, personal, technical, and other data and information relating to CDHS/TCS operations which are designated confidential by CDHS/TCS or developed by the LLA and deemed confidential by CDHS/TCS, shall be protected by the LLA from unauthorized use and disclosure. If the methods and procedures employed by the LLA for the protection of the LLA's data and information are deemed by CDHS/TCS to be adequate for the protection of the confidential information, such methods and procedures may be used to carry out the intent of this paragraph. If the methods and procedures employed by the LLA are deemed by CDHS/TCS to be inadequate, CDHS/TCS, in cooperation with the LLA, will specify the procedures to be followed.

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- B. The LLA and all subcontractors shall immediately notify the Program Contract Manager of any request from a third party for disclosure of any information relating to this agreement, including, but not limited to, subpoena, deposition proceedings, court order or other legal action. Unless the Program Contract Manager authorizes the disclosure of the information in writing, the LLA and all subcontractors shall use every means, to the maximum extent permitted by law and at no cost to CDHS/TCS, to protect the information from disclosure.

9. Elected Officials

No funds, pursuant to this agreement, shall be used to feature in any manner the image or voice of any elected public official or candidate for elected office, or directly present the views of any elected public official or candidate for elected office.

10. Child Support Compliance Act Acknowledgement

Effective January 1, 1999, by signing this agreement that exceeds \$100,000, the LLA acknowledges that:

- A. The LLA recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The LLA, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- C. Questions about the New Employee Registry and reporting requirements are to be directed to the California Employment Development Department.

Special Terms and Conditions

(For State funded subvention, local assistance and direct service contracts and grant agreements)

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or govern the meaning of any specific term or condition. The terms "contract", "Contractor" and "Subcontractor" shall also mean, "grant", "Grantee" and "Subgrantee" respectively.

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1. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with contract funds.)

Reimbursement for travel and per diem expenses from DHS under this agreement shall, unless otherwise specified in this agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for nonrepresented state employees. If the DPA rates change during the term of the agreement, the new rates shall apply upon their effective date and no amendment to this agreement shall be necessary. Exceptions to DPA rates may be approved by DHS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior written authorization from DHS.

2. Procurement Rules

(Applicable to all agreements in which equipment, miscellaneous property, commodities and/or supplies are furnished by DHS or expenses for said items are reimbursed with state funds.)

a. Equipment definitions

Wherever the term equipment and/or miscellaneous property is used, the following definitions shall apply:

- (1) **Major equipment:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHS or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more that is listed on the DHS Asset Management Unit's Minor Equipment List and is either furnished by DHS or the cost is reimbursed through this agreement. Contractors may obtain a copy of the Minor Equipment List by making a request through the DHS program contract manager.
- (3) **Miscellaneous property:** A specific tangible item with a life expectancy of one (1) year or more that is either furnished by DHS or the cost is reimbursed through this agreement. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this agreement. Said procurements are subject to Paragraphs d through h of Provision 2. Paragraph c of Provision 2 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this agreement.

- (1) Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHS program contract manager, to have all remaining equipment purchased through DHS' Purchasing Unit. The cost of equipment purchased by or through DHS shall be deducted from the funds available in this agreement. Contractor shall submit to the DHS program contract manager a list of equipment specifications for those items

- that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with DHS. The equipment will be delivered to the Contractor's address, as stated on the face of the agreement, unless the Contractor notifies the DHS program contract manager, in writing, of an alternate delivery address.
- (2) All equipment purchases are subject to Paragraphs d through h of Provision 2. Paragraph b of Provision 2 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
 - (3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:
 - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement contract in which, to his or her knowledge, he or she has a financial interest.
 - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
 - (c) Procurements shall be conducted in a manner that provides for all of the following:
 - [1] Avoid purchasing unnecessary or duplicate items.
 - [2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3] Take positive steps to utilize small and veteran owned businesses.
 - d. Unless waived or otherwise stipulated in writing by DHS, prior written authorization from the appropriate DHS program contract manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
 - e. In special circumstances, determined by DHS (e.g., when DHS has a need to monitor certain purchases, etc.), DHS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHS determines to be unnecessary in carrying out performance under this agreement.
 - f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
 - g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
 - h. DHS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 2 by giving the Contractor no less than

30 calendar days written notice.

3. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or miscellaneous property is furnished by DHS and/or when said items are purchased or reimbursed with state funds.)

- a. Wherever the term equipment and/or miscellaneous property is used in Provision 3, the definitions in Provision 2, Paragraph a shall apply.

All equipment and/or miscellaneous property that are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement and not fully consumed in performance of this agreement shall be considered state equipment and the property of DHS.

- (1) DHS requires the reporting, tagging and annual inventorying of all equipment and/or miscellaneous property that is furnished by DHS or purchased/reimbursed with funds provided through this agreement.

Upon receipt of equipment and/or miscellaneous property, the Contractor shall report the receipt to the DHS program contract manager. To report the receipt of said items and to receive property tags, the Contractor shall use a form or format designated by DHS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHS Funds) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager.

- (2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or miscellaneous property to the DHS program contract manager using a form or format designated by DHS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHS-Funded Equipment) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
 - (b) Submit the inventory report to DHS according to the instructions appearing on the form or issued by the DHS program contract manager.
 - (c) Contact the DHS program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by DHS' Asset Management Unit.
- b. Title to state equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property not owned by the State.
 - c. Unless otherwise stipulated, DHS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or miscellaneous property.
 - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or miscellaneous property.
 - (1) In administering this provision, DHS may require the Contractor and/or Subcontractor to repair or replace, to DHS' satisfaction, any damaged, lost or stolen state equipment and/or

miscellaneous property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHS program contract manager.

- e. Unless otherwise stipulated by the program funding this agreement, equipment and/or miscellaneous property purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, shall only be used for performance of this agreement or another DHS agreement.
- f. Within sixty (60) calendar days prior to the termination or end of this agreement, the Contractor shall provide a final inventory report of equipment and/or miscellaneous property to the DHS program contract manager and shall, at that time, query DHS as to the requirements, including the manner and method, of returning state equipment and/or miscellaneous property to DHS. Final disposition of equipment and/or miscellaneous property shall be at DHS expense and according to DHS instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by DHS immediately after receipt of the final inventory report. At the termination or conclusion of this agreement, DHS may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different DHS agreement.

g. **Motor Vehicles**

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under this agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, within thirty (30) calendar days prior to the termination or end of this agreement, the Contractor and/or Subcontractor shall return such vehicles to DHS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this agreement or any period of contract extension during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, to the Contractor and/or Subcontractor.

- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHS program contract manager.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this agreement or until such time as the motor vehicle is returned to DHS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
 - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Services).
 - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.
 - [3] The insurance carrier shall notify the State of California Department of Health Services, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHS, in writing, if this provision is applicable to this agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHS may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

4. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
 - (1) The Contractor must provide in its request for authorization, all particulars necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) The State may identify the information needed to fulfill this requirement.

- (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
- (a) A local governmental entity or the federal government,
 - (b) A State college or university from any State,
 - (c) A Joint Powers Authority,
 - (d) An auxiliary organization of a California State University or a California community college,
 - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
 - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
 - (g) Entities of any type that will provide subvention aid or direct services to the public,
 - (h) Entities and/or service types identified as exempt from advertising in State Administrative Manual Section 1233 subsection 3. View this publication at the following Internet address: <http://sam.dgs.ca.gov>.
- (4) Unless otherwise mandated by the funding agency (i.e., federal government), DHS may only pay the Contractor's overhead charges or indirect costs on the first \$25,000 of each subcontract.
- b. DHS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this agreement.
- (1) Upon receipt of a written notice from DHS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHS. DHS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this agreement and shall, upon request by DHS, make said copies available for approval, inspection, or audit.
- e. Sole responsibility rests with the Contractor to ensure that subcontractors, used in performance of this agreement, are paid in a timely manner. The timeliness of said payments may be affected by the timeliness of payments issued by DHS to the Contractor.
- f. The Contractor is responsible for all performance requirements under this agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHS, to permit DHS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this agreement.

- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 17.

5. Income Restrictions

Unless otherwise stipulated in this agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this agreement shall be paid by the Contractor to DHS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHS under this agreement.

6. Audit and Record Retention

(Applicable to agreements over \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purposes of this provision.
- b. The Contractor's and/or Subcontractor's facility or office or such part thereof as may be engaged in the performance of this agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHS, the Department of General Services, the Bureau of State Audits, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this agreement, or by subparagraphs (1) or (2) below.
 - (1) If this agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this agreement, reduce its accounts, books and records related to this agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm

readers and microfilm printers, etc.

7. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

8. Intellectual Property Rights

a. Ownership

- (1) Except where DHS has agreed in a signed writing to accept a license, DHS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement.
- (2) For the purposes of this agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this agreement. In addition, under this agreement, Contractor may access and utilize certain of DHS' Intellectual Property in existence prior to the effective date of this agreement. Except as otherwise set forth herein, Contractor shall not use any of DHS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHS. **Except as otherwise set forth herein, neither the Contractor nor DHS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHS in the third-party's license agreement.

- (4) Contractor agrees to cooperate with DHS in establishing or maintaining DHS' exclusive rights in the Intellectual Property, and in assuring DHS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this agreement, Contractor shall require the terms of the agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHS and which result directly or indirectly from this agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this agreement. Contractor hereby grants to DHS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Section a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement, shall include DHS' notice of copyright, which shall read in 3mm or larger typeface: "© 2001, State of California, Department of Health Services. This material may not be reproduced or disseminated without prior written permission from the Department of Health Services." This notice should be placed prominently on the materials and set apart from other

matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

With respect to inventions made by Contractor in the performance of this agreement, which did not result from research and development specifically included in the agreement's scope of work, Contractor hereby grants to DHS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the agreement's scope of work, then Contractor agrees to assign to DHS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHS in securing United States and foreign patents with respect thereto.

e. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHS' prior written approval; and (ii) granting to or obtaining for DHS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this agreement. If such a license upon the these terms is unattainable, and DHS determines that the Intellectual Property should be included in or is required for Contractor's performance of this agreement, Contractor shall obtain a license under terms acceptable to DHS.

f. Warranties

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this agreement.
- (c) Neither Contractor's performance of this agreement, nor the exercise by either Party of the rights granted in this agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
- (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHS in this agreement.

- (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this agreement.
- (2) DHS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless DHS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this agreement. DHS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHS.
- (2) Should any Intellectual Property licensed by the Contractor to DHS under this agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHS' right to use the licensed Intellectual Property in accordance with this agreement at no expense to DHS. DHS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHS shall be entitled to a refund of all monies paid under this agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHS would suffer irreparable harm in the event of such breach and agrees DHS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

In any agreement funded in whole or in part by the federal government, DHS may acquire and

maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

i. Survival

The provisions set forth herein shall survive any termination or expiration of this agreement or any project schedule.

9. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior DHS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

10. Confidentiality of Information

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this agreement or persons whose names or identifying information become available or are disclosed to the Contractor, his/her employees, agents, or subcontractors as a result of services performed under this agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHS program contract manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this agreement or authorized by the client, any such identifying information to anyone other than DHS without prior written authorization from the DHS program contract manager.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

11. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contract communications) prepared as a requirement of this agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

12. Dispute Resolution Process

- a. A Contractor grievance exists whenever the Contractor believes there is a dispute arising from DHS' action in the administration of an agreement. If the Contractor believes there is a dispute or grievance between the Contractor and DHS, both parties shall follow the procedure outlined below.
 - (1) The Contractor should first discuss the problem informally with the DHS program contract manager. If the problem cannot be resolved at this stage, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. Should the Contractor disagree with the Branch Chief's decision, the Contractor may appeal to the second level.
 - (2) The Contractor must prepare a letter indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the letter a copy of the Contractor's original statement of dispute with any supporting documents and a copy of the Branch Chief's response. This letter shall be sent to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division funding this agreement or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division funding this agreement or his/her designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division funding this agreement or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated by DHS, dispute, grievance and/or appeal correspondence shall be directed to the DHS program contract manager.

13. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, grants, or subventions to other governmental agencies or units of government nor contracts with regional centers or area agencies on aging (See H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit

does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

- (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$300,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
 - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
 - (4) If the Contractor submits to DHS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$300,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHS program funding this agreement. The audit report must identify the Contractor's legal name and the number assigned to this agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHS program contract manager shall forward the audit report to DHS' Audits and Investigations Unit.
 - e. The cost of the audits described herein may be included in the funding for this agreement up to the proportionate amount this agreement represents of the Contractor's total revenue. The DHS program funding this agreement must provide advance written approval of the specific amount allowed for said audit expenses.
 - f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
 - g. Nothing in this agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
 - h. Nothing in this provision limits the authority of the State to make audits of this contract, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
 - i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.

14. Novation Requirements

If the Contractor proposes any novation agreement, DHS shall act upon the proposal within 60 days after receipt of the written proposal. DHS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHS will initiate an amendment to this agreement to formally implement the approved proposal.

15. Payment Withholds

(Applicable only if a final report is required by this agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this agreement, DHS may, at its discretion, withhold 10 percent (10%) of the face amount of the contract, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHS receives a final report that meets the terms, conditions and/or scope of work requirements of this agreement.

16. Performance Evaluation

(Not applicable to grant agreements.)

DHS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHS. Negative performance evaluations may be considered by DHS prior to making future contract awards.

17. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this agreement if made with a corporation for its general benefits.

18. Year 2000 Compliance

(Applicable to agreements in which Information Technology (IT) services are provided to DHS or if IT equipment is procured.)

The Contractor warrants and represents that the goods or services sold, leased, or licensed to the State of California, its agencies, or its political subdivisions, pursuant to this agreement are "Year 2000 Compliant." For the purposes of this agreement, a good or services is Year 2000 compliant if it will continue to fully function before, at, and after the Year 2000 without interruption and, if applicable, with full ability to accurately and unambiguously process, display, compare, calculate, manipulate, and otherwise utilize date information. This warranty and representation supersedes all warranty disclaimers and limitations and all limitations on liability provided by or through the Contractor.

19. Prohibited Use of State Funds for Software

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

20. University of California Mutual Indemnification

(Applicable only to agreements entered with the Regents of the University of California or a University of California campus under its jurisdiction.)

- a. The State and the Regents of the University of California shall mutually defend, indemnify and hold each other and their respective agencies, officers, employees, and agents harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance of this contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of either the State or the Regents of the University of California.
- b. It should be expressly understood that the obligations hereunder shall be conditioned upon this contract being one that falls within the purview of Section 895 of the Government Code.

21. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to this agreement. Furthermore, Grantee, by signing this agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

22. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials

c. Specific allowable fringe benefits include:

- (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

- (1) Be necessary and reasonable for the performance of the agreement.
- (2) Be determined in accordance with generally accepted accounting principles.
- (3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all fringe benefits shall be at actual cost.

f. Earned/Accrued Compensation

- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
- (2) For multiple year contracts, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the agreement. Holidays cannot be carried over from one contract year to the next. See f Provision (3)(b) for an example.
- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a contract period of one year. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of the agreement, the Contractor during a one-year agreement term may only claim up to three weeks of vacation and twelve days of sick leave actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.